# SENATE

## SATURDAY, JULY 13, 1957

*(Legislative day of Monday, July 8, 1957)*

The Senate met at 9:30 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O God of grace and glory, in whose love and wisdom lies all our help and hope, in these hectic and explosive days may we be strengthened with might and our jaded souls refreshed as Thou dost lead us into green pastures and beside still waters.

Spirit of purity and grace,
Our weakness pitying see,
O make our hearts Thy dwelling place,
And worthier of Thee.

Amen.

## THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Journal of the proceedings of Friday, July 12, 1957, was approved, and its reading was dispensed with.

## TEXANS OF CZECHOSLOVAKIAN ORIGIN

Mr. JOHNSON of Texas. Mr. President, some people may think of the Communists as being shrewd, calculating, and devastating in their propaganda. But the facts are that when they make a "blooper," in the words of the late Fiorella La Guardia "it's a 'beaut'."

Texas is very proud of its residents of Czechoslovakian descent. They have contributed as much to our State as any other group, and they are Texans right down to the core.

Stanley Walker, the distinguished author, and Texan, tells the story today of the Communist Czech news agency which became somewhat confused. It carried a story that Czechs living in Texas had returned for visits to their homeland and found it attractive.

The Communist news agency caps this tale by claiming that these Texans plan to return to Czechoslovakia for keeps.

Mr. President, as Stanley Walker points out, this is the kind of story that will produce nothing but laughter everywhere outside the Iron Curtain. The thought of a Texan returning to Czechoslovakia is just plain incredible.

Mr. Walker cites the case of Mr. Joseph Zvolanek, who was misquoted by the Communist news agency. My deep sympathies go to him for the fraud that was perpetrated in his name.

I ask unanimous consent that Mr. Walker's article—as printed this morning in the New York Herald Tribune—be printed in the body of this RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of July 13, 1957]

PRAGUE STUBS TOE ON TEXAS—FORMER CZECHS SCORN RETURN TO THE OLD COUNTRY

(By Stanley Walker)

TEMPLE, TEX., July 12.—All of Texas is chuckling today because the Communist machine in Czechoslovakia has made one of the biggest propaganda blunders of the age.

Yesterday, the Czech news agency, which apparently doesn't know the difference between Texas and East Kazakhstan, released a story from Prague in which it was asserted that Texans of Czechoslovakian birth returning to their homeland for visits found the country so alluring and attractive they plan to go back and live there permanently.

This story was sent to all parts of the world, and the world, outside of the Iron Curtain, is having a big laugh.

Apparently, the Communists do not know that it is a part of American folklore that a Texan is a man who sends CARE packages to the residents of Westchester County, that a man would rather be born a Texan than be President, that a Texan is 9 feet tall when he walks in any of the other 47 States, and that a Texan considers the rest of the country, including Bridgeport, Conn., a province of Texas.

The Czech News Agency then compounded its error by quoting Joseph Zvolanek, a native of Czechoslovakia who has lived happily in Texas for nearly 50 years. Mr. Zvolanek, making his first journey to his homeland in 25 years, was quoted as saying, "I like it here so much that I shall settle my affairs in America and return in the spring for good."

Just today, Mr. Zvolanek returned to his small cottage in Temple after a flight from New York to Houston, a night in the Rice Hotel there and an automobile ride back home. I spoke to him. He said he was glad to be back home. And then he was shocked, bewildered and finally hurt when he learned that he was being used by the Communists in the land of his birth for propaganda purposes. He labeled the story a black-as-coal lie.

"I no say that," he exclaimed. "I no say that. This country best in the world. No country better in the world. This is a fine people * * * I no say that."

Mr. Zvolanek has been a shoe repairman in Texas for 48 years, but being a shoemaker in Texas is just a bit different, because he was able to return to Czechoslovakia in 1921 and 1932. And what he really said to the Czech reporters was that he might return for a visit sometime again.

I talked to Mr. Zvolanek and found him to be as much a Texan as I am. It is difficult to imagine his finding another part of the world more alluring. His son, Joe, Jr., 38, who helps run the shoe-repair business, drove the old man home from Houston. He's a Texan, too.

The father said he returned to the old country to see his sister, a retired schoolteacher, and to try to settle a small estate. He said his family owned a house worth about $10,000 and that he wanted to transfer its title to his sister, but failed because of government redtape.

There are many Czechs around Temple. They are happy, doing well, and devoted to their adopted land. They would no more think of returning to Czechoslovakia for good than they would move to Rhode Island, say.

## CIVIL RIGHTS

Mr. JOHNSON of Texas. Mr. President, I wish to make a very brief comment concerning the Senate, the press, and the country.

We have had a week of extremely able debate, which is setting the stage for the important vote on Tuesday. There are still several speeches to be made. However, I doubt that it will be necessary for the Senate to remain in session late this evening. I am hopeful that before the session concludes today it will be possible to reach an agreement with the minority leader which will permit us to make an adjustment in the schedule announced yesterday, so the Senate may convene at a little later hour if the speeches are shorter than anticipated, or fewer in number. I shall make an announcement to the Senate when an agreement is reached.

I believe all my colleagues will agree that the debate thus far has been enlightening, and not the kind to be missed. I believe they will realize that further enlightenment will come from continued attendance upon sessions of the Senate.

As was pointed out last night by both the minority leader and myself, the unanimous-consent agreement does not preclude motions which would otherwise be in order. I have no reason to anticipate such motions, but I do anticipate that there will be quorum calls from time to time.

The climate which has been created in the Senate is the kind that leads to constructive achievement. For this result every Senator who has participated is responsible. There has been a display of forbearance and there have been mutual efforts at understanding. Senators have demonstrated restraint, tolerance, and a general attempt to comprehend controversial points of view.

I am very proud of the very tolerant and objective manner in which Senators have spoken; I am proud of the manner in which the press has reported their speeches; and I am particularly proud of the way those speeches have been received by the American people. I have received many communications on both sides of the question. They express deep conviction.

However, they have been restrained and reasoned communications, communications, calculated to appeal to a reasonable man, not because of threat or force, but because the author thought he was right, because he thought his case was just, and because he thought he could support it on the basis of the merits. I hope we may continue to operate in that spirit in the Senate, in the press, and in the country.

I am not in a position to say that in the days ahead there will be no long sessions. I am not in a position to assure anyone that the Senate will not sit around the clock. I am not in a position to say that we shall not be here when the leaves drop in the fall. I am only in a position to say that I hope that will not be the case.

However, I think it would be very premature, this early in the debate, to have any motion pictures made of Senators spending all night in sessions of the Senate.

I anticipate that the debate will be long, and that Senators with strong convictions will express themselves fully. However, I have such confidence in the Senate and in the country that I believe the answer which will come will be one which will make all America proud of this great deliberative body.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. The order entered yesterday provided for a morning hour today for the transaction of routine business. Such business is now in order.

## REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. SMATHERS, from the Committee on Interstate and Foreign Commerce, without amendment:

H. R. 3775. An act to amend section 20b of the Interstate Commerce Act in order to require the Interstate Commerce Commission to consider, in stock modification plans, the assents of controlled or controlling stockholders, and for other purposes (Rept. No. 610).

By Mr. SMATHERS, from the Committee on Interstate and Foreign Commerce, with amendments:

H. R. 3625. An act to amend section 214 of the Interstate Commerce Act, as amended, to prevent the use of arbitrary stock par values to evade Interstate Commerce Commission jurisdiction (Rept. No. 611).

## BILL AND JOINT RESOLUTIONS INTRODUCED

A bill and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BARRETT:

S. 2541. A bill to permit the Secretary of the Interior to fix the size of farm units on Federal reclamation projects at more than 160 irrigable acres in certain circumstances, and for other purposes; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. BARRETT when he introduced the above bill, which appear under a separate heading.)

By Mr. SPARKMAN (by request):

S. J. Res. 120. Joint resolution to authorize the sale of a certain number of merchant-type vessels to French citizens; and

S. J. Res. 121. Joint resolution to authorize the sale of a Liberty-type vessel to the George Steamship Corp.; to the Committee on Interstate and Foreign Commerce.

## INCREASED SIZE OF FARM UNITS ON FEDERAL RECLAMATION PROJECTS IN CERTAIN CIRCUMSTANCES

Mr. BARRETT. Mr. President, I introduce for appropriate reference a bill amending the land limitation provisions of the reclamation law, and I ask that the bill be appropriately referred.

Mr. President, the 160-acre limitation provision of the reclamation law is outmoded and obsolete, and has outlived its usefulness, and should be amended to provide for enlarged farm units which will be economically feasible and adequate to provide a profitable family farming enterprise. On the older projects it was possible in many instances to support a family on 160 acres, but in recent years it has become increasingly difficult to do so. The Bureau of Reclamation has permitted units over 160 acres for many settlers, and by regulation 320 acres for a man and wife. Laws have been enacted by the Congress permitting homesteads in excess of 160 acres on a good many projects. Water has long since been applied to the lower and more desirable areas. Projects are now being constructed at higher elevations, with shorter growing seasons, and where the soil conditions and the topography all indicate the absolute necessity for much larger farms. In addition, providing a supplemental supply of water for existing projects invariably presents difficult land limitation problems. To be realistic, the law should be amended to meet the changing conditions of the times.

Mr. President, my bill will, if enacted, enable the Secretary of the Interior in the public interest to establish farm units in excess of 160 acres where soil conditions, elevation, topography, climate, and long-range capabilities of the land warrant larger units.

Mr. President, the bill provides that recordable contracts under section 46 of the act of May 25, 1926, shall not be required when such contracts provide for the payment of interest to the United States on that portion of the construction charges on land in excess of the land limitation provisions of the reclamation law, when the works of such project deliver a supplemental supply of water for irrigation or where water is delivered for the irrigation of lands which have been cultivated for the raising of crops for more than 10 years prior to the authorization of such project. The interest rate is set in accordance with the provisions of the Small Projects Act of last year.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2541) to permit the Secretary of the Interior to fix the size of farm units on Federal reclamation projects at more than 160 irrigable acres in certain circumstances, and for other purposes, introduced by Mr. BARRETT, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

*Be it enacted, etc.,* That whenever, after investigation requested by the governor of an affected State to determine the economic adequacy of the land-limitation provisions of the Federal reclamation laws, the Secretary of the Interior determines that more than 160 irrigable acres on a project subject to the Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto) is necessary for the support of an average-sized family at a suitably profitable level on that project or any part of it compatible with the maintenance of irrigated agriculture as a component of a sound and stable society, and for the success of the project, he is authorized, upon terms and conditions satisfactory to him, to waive the limit of 160 irrigable acres which now appears in the third sentence of section 46 of the act of May 25, 1926 (44 Stat. 636, 649, 43 U. S. C., sec. 423e), and the limits of 160 irrigable acres and 320 acres in all, which appear in section 8 of the act of August 13, 1953 (67 Stat. 566, 568, 43 U. S. C., sec. 451h), and to substitute therefor such greater acreage or acreages as in his judgment is called for in order to accomplish the purposes aforesaid. In making his determination under this section, the Secretary shall give consideration to the elevation and climate of the project lands, their topography and soils, the crops to which they are best adapted, and long-range estimates of their earning capacity, and he may, in the light of these factors, fix varying maximum sizes for the farm units on the project.

SEC. 2. Nothing contained in this act shall alter the force or effect of any contract heretofore entered into under the Federal reclamation laws, as amended and supplemented, or forbid, where such contract exists, the continued delivery of water to lands held by owners who are entitled to receive the same consistently with the third sentence of section 46 of the aforesaid act of May 25, 1926, as amended, and section 8 of the act of August 13, 1953. Nothing contained in this act shall affect or be applicable to any project which has been exempt by act of Congress from the excess land provisions of the Federal reclamation laws and nothing contained in section 1 of this act shall affect or be applicable to any project with respect to which excess land provisions have been prescribed by act of Congress which are different from the general excess land provisions of the Federal reclamation laws.

SEC 3. Section 46 of the act of May 25, 1926, is hereby amended by adding the following: *"Provided further,* That the aforesaid recordable contracts shall not be required when such contract or contracts with irrigation districts provide for the payment to the United States of interest on that proportion of the construction charges attributable to lands within such district or districts held in excess of the land limitation provisions of the reclamation law. This proviso shall be applicable only when the works of such project or division of a project deliver a supplemental supply of water for irrigation or when water is delivered for the irrigation of lands which have been subjected to cultivation for the production of agricultural crops for more than 10 years prior to the authorization of such project or division of a project. Such interest shall be at the rate determined by the Secretary of the Treasury, by estimating the average annual yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May preceding the fiscal year in which the loan is made, on all outstanding marketable obligations of the United States having a maturity date of 15 or more years from the first day of such month of May, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 percent at the beginning of the fiscal year preceding the date on which the contract is executed."

## SPECIAL COMMITTEE TO INVESTIGATE STATUS OF FORCES TREATY WITH JAPAN, RELATING TO THE GIRARD CASE—AMENDMENT

Mr. ALLOTT. Mr. President, for well over a month the executive, judicial, and legislative branches of our Government have been greatly concerned with the case of Army Sp3c William S. Girard and the proposal to turn this Ameri-

can serviceman over to Japan for criminal prosecution for alleged homicide.

While our sympathies and interest have been focused on this one case, we have all known and recognized that this problem is as wide as America's global peace effort, and involves, potentially, the problem of whether this Government will provide American service men and women serving overseas the traditional sort of justice that their backgrounds and history have taught them is their right.

With commendable speed, the Supreme Court by its decision of yesterday provided some judicial clarification of the matter. Note that only 34 days elapsed from the filing of that case, Girard against Wilson, in the district court and the final decision thereon by the Supreme Court. While technically approving the constitutionality and propriety of the decision of the executive branch to release Girard to the Japanese for trial, the Court made it clear that responsibility for the exercise of sound judgment and the providing of clear statutory policies rests not with the judiciary, but with the executive branch and the Congress. It said—and I am deleting here certain portions so that the sentence may be clarified:

> The issue * * * is * * * whether * * * the Constitution or legislation subsequent to the security treaty prohibited the carrying out of this treaty.

Note the word "subsequent." The Supreme Court clearly indicates that the Congress can legislate now on this matter. The Court continued:

> We find no constitutional or statutory barrier * * *. In the absence of such * * * the wisdom is exclusively for * * * the executive and legislative branches.

I have long felt, and I am sure, many of my colleagues have shared my feeling, that the Congress, and the Senate especially, because of its responsibility to advise on and consent to treaties, should take more seriously its responsibilities in this area—should provide the executive branch with more definitive policy—should provide the American serviceman performing his obligated service overseas with positive assurances of his right to justice and judgment in the American tradition.

On June 5, 1957, lacking specific guidance and clarification, I caused to be submitted in the Senate, Senate Resolution 144, which would authorize the creation of a special committee of the Senate to look into this matter and provide the Senate and its Members with the guidance it needs to perform its constitutional duties in this matter. I should like at this time to submit an amendment in the nature of a substitute for Senate Resolution 144.

The revised resolution would authorize the proposed special committee to develop, define, and catalog for the Senate the standards and policies heretofore employed by the executive branch in these matters, the levels at which decisions with respect to them are and should be made, the extent to which there is confusion between the merits of the cases which arise, and the jurisdictional principles that should control decisions as to whether to try a given case in American courts, together with the vital related problem of whether the courts which the United States provide in overseas areas—courts-martial—are as capable of reaching fair decisions as the courts of foreign lands.

Other provisions of the proposed substitute resolution would extend the study to the interpretation of certain controversial terms used in the relevant treaties and Executive agreements, settle once and for all the question of whether there has been dereliction of duty by American officials, and provide the Senate with the committee's advices as to the policies it, the Senate, should follow in future actions on legislation on this subject, and in advising on and consenting to treaties.

This substitute varies from my original resolution in three particulars:

First, it places emphasis on the general problem rather than the particular Girard case—although it does not ignore the latter;

Secondly, it eliminates from the proposed duties of the committee those determinations as to legality and related matters upon which we now have Supreme Court clarification; and

Lastly, it increases from $50,000 to $100,000 the funds for the study. As to the latter, it is my feeling that the figure originally used might be too restrictive to permit the committee to do the sort of job that the Senate needs done.

I submit at this time the substitute resolution, and respectfully request that it be submitted to the Foreign Relations Committee.

For the record I should like to make several points in summary fashion so that my own view in sponsoring the substitute resolution is clear. Specifically:

First. Congress has a constitutional duty to perform in establishing policies through statute. It cannot shunt this duty off on the executive branch. To perform its duty the Senate needs more information than it now has. A special committee is the right way to concentrate on securing the needed information.

Second. This must be a Senate—not a joint—committee because the Senate, in addition to its duty to legislate in conjunction with the House of Representatives, has the additional constitutional duty of advising on and consenting to treaties. According to the Supreme Court, we—the Senate of the United States—approved, in effect, the treaty and administrative agreement involved in the Girard case.

Third. Our constitutional duties must be performed judiciously and carefully, not in haste. The necessary study cannot be completed before adjournment.

Fourth. We must through legislative act bring consistency and stability to our national and international policies in these matters. We must reaffirm or abrogate (as the Court indicated we may) the status of forces and related agreements.

Fifth. We must be studiously fair to our servicemen as well as our allies—but if there is conflict between them—as there apparently was in the Girard case—our primary duty is to American citizens—because we sit here as a legislative body representing those citizens. When such a conflict exists, Mr. President, we have in fact no free choice—we must choose to favor those we were elected to represent, those who pay our taxes, those who fight our wars.

I might add a sixth point, a sort of final summary, which is that I deem it highly necessary that this matter be studied by a bipartisan committee in a climate of complete objectivity and constructiveness, in order that the decisions which the committee makes and the opinions which it renders to advise and guide the Senate will be of use to the Senate and free from the emotional atmosphere which pervades the consideration of the Girard case.

Mr. President, I ask unanimous consent that my amendment in the nature of a substitute may be printed at this point in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. The amendment will be received, printed, and referred to the Committee on Foreign Relations; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Amendment intended to be proposed by Mr. ALLOTT to the resolution (S. Res. 144) to create a special committee to investigate the operation of the status of forces treaty and agreement between the United States and Japan, with particular reference to the Girard case.

Strike out all after the word *"Resolved,"* in line 1 of page 1 and substitute the following:

"That (a) there is hereby established a special committee to be composed of 8 Senators to be appointed by the President of the Senate, of whom 4 shall be members of the majority party and 4 shall be members of the minority party.

"(b) The President of the Senate is instructed to appoint the members of this special committee from the following: Two members from the Committee on Armed Services, 2 members from the Committee on Foreign Relations, 2 members from the Committee on the Judiciary, and 2 Members of the Senate at large.

"(c) The committee is authorized and directed to conduct a full and complete study and investigation for the purpose of determining—

"(1) The standards and stated policies used by the executive branch in exercising its authority to waive or assert jurisdiction over offenses by American personnel.

"(2) The echelons in the executive branch at which decisions referred to in (1) above have been and should in the future be made.

"(3) The extent to which the merits of individual cases (such as the case of William S. Girard) has in the past affected and should in the future affect decisions to waive or not to waive jurisdiction.

"(4) The competency of courts-martial to try fairly cases such as that of William S. Girard.

"(5) the meaning, intent, and need for clarification of the clause 'arising out of any act or omission done in the performance of official duty' as used in the administrative agreement, and modifications thereof, under the United States-Japanese Security Treaty, and in other treaties and Executive agreements of the United States.

"(6) Whether any official of the United States acting under instructions from higher authority or otherwise, acted illegally, without authority, or was derelict in the performance of his duty in the case of William S. Girard or in any other case.

"(7) Whether the enactment of legislation is necessary to provide the intended protection of United States citizens serving in the Armed Forces of this country, while on assignment outside the continental limits of the United States.

"(8) Whether the United States should abrogate or modify by legislation or through negotiation, the Status of Forces and related treaties and Executive agreements.

"SEC. 2. The committee shall, at its first meeting, to be called by the President of the Senate, select a chairman and vice chairman from among its members. Any vacancy in the committee shall be filled in the same manner as the original appointment.

"SEC. 3. (a) For the purposes of this resolution the committee is authorized to (1) hold such hearings; (2) sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate; (3) require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (4) administer such oaths; (5) take such testimony either orally or by deposition; (6) employ on a temporary basis such technical, clerical, and other assistants and consultants, and, with the prior consent of the executive department or agency concerned and the Committee on Rules and Administration, employ on a reimbursable basis such executive branch personnel, as it deems advisable.

"(b) A quorum of the committee shall consist of four members, except that the committee may provide that, for the purpose of taking testimony, three members, two from the majority party and one from the minority party, shall constitute a quorum.

"SEC. 4. The expenses of the committee, which shall not exceed $100,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

"SEC. 5. (a) The committee shall report the results of its study and investigation, together with such legislative and other recommendations as it may deem advisable, to the Senate not later than January 15, 1958.

"(b) Upon the filing of its report, the committee shall cease to exist."

## ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. HRUSKA:

Address delivered by the Right Reverend Nicholas H. Wegner, President of Boys' Town, at the Boys' Town 40th commencement exercises on June 2, 1957.

## PRODUCTION OF STATEMENTS AND REPORTS OF WITNESSES

Mr. CLARK. Mr. President, there is pending on the calendar of the Senate Order No. 577, Senate bill 2377, a bill to amend chapter 223, title 18, United States Code, to provide for the production of statements and reports of witnesses. This is a bill which is intended to change substantially by legislation the ruling of the Supreme Court in the Jencks case.

This morning the leading editorial in the Washington Post and Times Herald, entitled "Suppressing Evidence," deals with that subject. I ask unanimous consent that the editorial be printed in the RECORD at this point as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUPPRESSING EVIDENCE

If the civil-rights filibuster keeps the Senate from blind and hasty action on the bill designed to upset the Supreme Court's decision in the Jencks case, it will have served at least one useful purpose. The problems the Jencks decision poses for the Government are serious, and some legislation may be required. But the bill as approved by the House and Senate Judiciary Committees without granting a hearing to anyone in opposition, is so loose in its language and so sweeping in its application that its sponsors could hardly have intended the consequences it would bring about. One of those sponsors, Senator O'MAHONEY, has now fortunately, offered a drastically revised version. The changes he recommends reveal how mischievous the bill is in its original form.

One of Senator O'MAHONEY's amendments would correct the bill's probably unintended radical revision of the Federal Rules of Criminal Procedure. The sloppy draftmanship of the original bill would have denied to defendants in income tax and antitrust cases books and records seized by the Government, which would be indispensable to the preparation of a defense. Mr. O'MAHONEY now proposes what he must have had in mind in the first place, that the legislation apply only to a "statement or report of a prospective witness." This was, of course, all the Supreme Court dealt with in its Jencks decision. In conformity with the Court's ruling, Senator O'MAHONEY would now have the Government produce "for delivery directly to the defendant" relevant portions of reports or statements made by a Government witness touching on his testimony at the trial.

Unfortunately, the Senator's amendment proceeds to qualify this by providing that when the United States claims that relevant reports or statements contain privileged information the disclosure of which would be prejudicial to national security the Court shall examine these in camera and exercise what is irrelevant. The trouble here is that the Supreme Court and Senator O'MAHONEY's revised bill already provide that only material related to the testimony of the witness be produced in the first place, and privilege has nothing to do with the case. As soon as the Government elects to put a witness on the stand, previous reports or statements by him touching on his testimony cease to be privileged. As the Court observed: "It is unconscionable to allow it [the Government] to undertake prosecution and then invoke its governmental privileges to deprive the accused of anything which might be material to the defense."

We think Senator O'MAHONEY's revised version is still sadly defective in other respects. It would keep relevant reports or statements of a Government witness from the defense until after the witness had testified. No interest of justice or national security is served by taking defendants by surprise. Since the Government knows in advance what its witnesses are going to say, the relevant material ought to be made available to the defense in advance of trial in order to facilitate effective and prompt cross-examination. Situations may arise when the Government is in genuine doubt as to the relevancy of portions of previous reports or statements by its witnesses or when excisions made by the Government are challenged by the defense. It is in such contingencies alone that examination by the court in camera is justified in order to determine whether the questioned material is in fact related to the testimony of the witness.

It is even more deplorable that the revised version of the bill retains the original provision that when the Government declines to comply with a court order to produce relevant material, the court "shall strike from the record the testimony of the witness and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared." This is simply an invitation to governmental irresponsibility. Once the Government chooses to use a witness, it is under a clear obligation to give the defense a full chance to impeach his credibility.

When the Senate debates this hurriedly drafted and redrafted bill, there is one consideration which it ought to keep clearly in mind. The confidentiality of FBI files is important. But in the United States the right of an accused person to a fair trial has always been regarded as at least equally important.

Mr. CLARK. This editorial points out that the O'Mahoney bill, even with the amendment suggested, does not really take care of the appropriate needs of defendants in criminal cases. I suggest that it would be wise indeed if this bill should be left on the calendar until the Senate convenes again in January, because in my judgment adequate consideration has not been given to the serious implications with respect to civil liberties which would result from the passage of the bill.

I hope, therefore, that the bill will not be considered a matter of emergency legislation which must be passed before the Senate recesses for the summer.

Mr. President——

The PRESIDENT pro tempore. The Senator from Pennsylvania.

## CIVIL RIGHTS

Mr. CLARK. Mr. President, as the majority leader [Mr. JOHNSON of Texas] has so well said today, we have listened to a number of extremely able speeches on the civil-rights bill. I agree that, in general, the speeches have been good tempered, that the Senate has behaved with distinction, and that we have every reason to be proud of our colleagues for the temperate manner in which the debate has been conducted.

However, I think it is only appropriate to point out that, with the exception of a fine speech by the distinguished junior Senator from Illinois [Mr. DIRKSEN], all the speeches of any length or substance which have been made up to this time—and I exclude, of course, the comments made from time to time by the distinguished minority leader—have been made by opponents of House bill 6127. I hope that the same spirit of tolerance and high level argument will prevail when we reach the point where those of us who strongly favor the bill rise in the Senate to advance arguments in support of the bill. It is very easy to have a good tempered argument when it is all on one side.

Mr. President, we have heard a great deal during the past week or 10 days about the necessity of trial by jury in connection with House bill 6127, and very able and fine arguments have been made on that subject by opponents of the bill. In this week's issue of the New Republic

there is a one-page article by the distinguished commentator, Alan Barth, entitled "Trial by Jury—The Southern Argument." Mr. President, in my judgment this article in one page completely demolishes the arguments in support of trial by jury which our fine colleagues from the South have been making during the past 10 days. I ask unanimous consent that the article may be printed in the RECORD at this point of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRIAL BY JURY—THE SOUTHERN ARGUMENT

(By Alan Barth)

In their attack on the civil-rights bill, southern Members of Congress have armed themselves with a powerful, if misplaced, symbol—the right to trial by jury. The heart of the pending civil-rights bill is a provision under which the Federal Department of Justice could intervene in behalf of citizens, to prevent violation of their rights, by seeking a court order—that is, an injunction—forbidding the threatened violation, or remedying a violation already committed; enforcement of the court order would be by the traditional method of contempt proceedings.

Opponents of the bill have raised the cry that it would subject citizens to punishment without trial by jury. The cry has undoubted emotional impact, the right to a jury trial in criminal prosecutions and in civil cases at common law being a prime article of American faith. But the purpose of the civil-rights bill is not punishment but prevention; and it entails neither criminal prosecution nor a common law suit. It entails what the lawyers call an equity proceeding—an effort to forestall a wrongful act—and juries have never, in England nor in the United States, had any part in equity cases.

It seems to me fruitless to debate this controversy in terms of the motives involved. The effect of adding a jury trial amendment to the civil-rights bill would be virtually to nullify the bill, for experience has demonstrated that southern juries are indisposed to convict white men for denying civil rights to Negroes. But if it was this consideration that prompted introduction of the jury trial amendment, it would nevertheless be foolish to attribute cynicism to all those clamoring for it today. A good many northerners as well as southerners have become sincerely convinced that enforcement of the civil-rights bill without jury trial would amount to a novel and dangerous shortcut. Their contention had better be examined on its merits.

The principal constitutional right which the civil-rights bill aims to protect is the right to vote. There is widespread infringement of this right in the South—sometimes by discriminatory refusal of white voting officials to register Negroes, sometimes by intimidation, sometimes by outright violence at or near the polls. Negroes could bring equity suits in Federal courts to have these infringements enjoined. But Negroes are understandably wary about going to courts where white supremacy is the rule. It seems reasonable and logical, therefore, for the United States to go for them to the courts to protect rights guaranteed by the Constitution.

Here is how the procedure would work if the civil-rights bill (minus the trial-by-jury amendment) is adopted. When a voting official refused to register qualified Negro voters or when violence was threatened against Negroes desiring to vote, the Department of Justice would ask a Federal judge to enjoin such acts. If, after a suitable hearing, the judge issued an injunction, anyone disobeying it would be in contempt of court, and the judge could fine him or jail him in order to compel compliance.

There is nothing novel about this procedure. As Senator DOUGLAS has pointed out, no fewer than 28 statutes now authorize injunctive relief to the United States Government as a method of enforcement. The Fair Labor Standards Act is a good example: violations are dealt with by having the Wage and Hour Administrator obtain an injunction against offenders. If the injunction is respected, no sanctions are necessary. If it is defied, the court imposes sanctions until its order is obeyed.

The power to compel obedience to lawful orders is an inherent attribute of any court. Without it, the courts could not function; their commands would become meaningless, and they could not even assure the maintenance of decorum. This does not mean that court orders can be issued arbitrarily or capriciously or in disregard of the law. Any court order, or any contempt penalty for violation, can be appealed to a higher court and reversed if it is invalid. The proper protection of defendants against judicial abuse of power lies in appellate review, not in jury trial.

The primary justification for resort to injunctions instead of prosecutions under the civil-rights bill is that the purpose is to prevent or to remedy infringements of civil rights rather than punish them. Punishment obtained through prosecution, even if juries convict, is of no avail to the citizen who has been deprived of his right to vote. The only meaningful protection of the right to vote lies in arresting violation of it before election day. And the only way to provide this protection in time is through the use of injunctions.

It is something of a curiosity that southern Senators have suddenly come to look upon Federal judges as foreign tyrants. Senator RICHARD RUSSELL, for example, has said that the civil-rights bill would impose bayonet rule on the South. But almost without exception judges of the Federal district and circuit courts are southern natives, products of Southern culture and selected for their present positions by southern Senators. One of them, Judge Robert L. Russell of the fifth circuit court of appeals, is Senator RUSSELL'S brother.

It seems unlikely that such men will wield their injunctive and contempt powers oppressively in disregard of the social pattern in which they were reared. Nevertheless, they are more likely than untutored jurors to prevent violations of the Constitution which they are sworn to uphold.

Mr. CLARK. Mr. President, I particularly call attention to one paragraph in the article, which I should like to quote, in the hope that many of my colleagues will have an opportunity to read it when the CONGRESSIONAL RECORD comes before them. It reads:

The primary justification for resort to injunctions instead of prosecutions under the civil-rights bill is that the purpose is to prevent or to remedy infringements of civil rights rather than punish them. Punishment obtained through prosecution, even if juries convict, is of no avail to the citizen who has been deprived of his right to vote. The only meaningful protection of the right to vote lies in arresting violation of it before election day. And the only way to provide this protection in time is through the use of injunctions.

Mr. President, I hope that all Members of the Senate will give serious consideration to this brief article, because perhaps 2 minutes of reading makes it unnecessary for us to follow in such enormous detail the very eloquent and fine speeches of our colleagues who are opposing the bill.

Mr. President, I now turn my attention to another subject.

The PRESIDENT pro tempore. The Senator from Pennsylvania has the floor.

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## THE PRESIDENT'S POSITION ON NATIONAL ISSUES

Mr. CLARK. Mr. President, I have read with great interest, in the New Republic of this week, the Washington Wire article, written by its regular contributor, T. R. B. It deals with the position of the President of the United States in connection with the civil-rights discussion, and points out that his ambivalence in this regard and his unwillingness to take a position is identical with his action in connection with the budget and in connection with his position on nuclear tests and disarmament.

It calls attention to the brilliant article written by the junior Senator from Oregon [Mr. NEUBERGER] and published in the New York Times magazine, in which the Senator from Oregon points out the difficulties in which many of us on the liberal side in the Democratic Party from the North find ourselves, and makes suggestions as to how we should perhaps conduct ourselves.

I ask unanimous consent that the article to which I have referred may be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

I'M FOR IT, BUT—

There is a marked similarity between President Eisenhower's handling of the budget dispute, the nuclear test dispute and the civil-rights dispute. In each case he seemed to be on both sides of the question at decisive moments.

Budget: When Treasury Secretary George Humphrey attacked the unprecedented $72 billion peacetime Eisenhower budget in January the President, instead of firing Humphrey, mildly declared, January 23, that if Congress could cut the budget it is their duty to do it. Big business and the press thought this was a green light for pressure on Congress and launched a huge antibudget attack. It was not till the House passed a tongue-in-cheek resolution asking the President where to cut the budget that he began to defend it. Even after GOP Old Guard Senator BARRY GOLDWATER called the 1958 budget a betrayal of the public trust, Eisenhower, April 10, agreed sorrowfully that $72 billion is still a terrific amount of money. The spectacle of a Chief Executive wavering about his own budget is something new in United States politics.

Nuclear tests and disarmament: With Harold Stassen negotiating in London it became apparent from Eisenhower comments that the administration had not settled its own internal disagreements. The President's deep feeling for disarmament is known; on June 26 he said, "I repeat it almost in my sleep, there will be no such thing as a victorious side in any global war of the future." But in the meantime AEC Chairman Strauss had rushed atomic scientist Ernest Lawrence and Edward Teller in to see him with word that if instead of suspending nuclear tests they could be continued 4 or 5 years we might have an absolutely clean bomb. On June 26 and again in the press conference last week the perplexed President seemed to be arguing with himself in public. "Humanity would be benefited by disarmament, true,"

he said: "but humanity would also be benefited by the achievement of a fantastic new clean explosive in building tunnels and moving mountains." Asked bluntly if he were less enthusiastic about a disarmament agreement than previously, he repeated that he had not withdrawn from his earlier offers. It will be hard to forget the image of a pink-faced, harassed man commenting unhappily, I repeat it almost in my sleep.

Civil rights: On two occasions the President supported his civil-rights bill as fair and moderate. Then Senator RICHARD RUSSELL, Democrat, of Georgia, let loose his violent blast charging the bill, unknown to the President, was cunningly devised to enforce a commingling of the races. Eisenhower reacted typically. He was deeply troubled. He told the press last week that (a) he had not previously read the bill, and (b) he had now read parts of it and "there were certain phrases I didn't completely understand." He wanted to talk the whole thing over with the Attorney General.

We submit that the same pattern emerges on these three issues. Eisenhower does not seem to have been fully briefed and prepared when he started them. Then at the psychological moment when the time came for full support, he flinched. Each of these issues was a part of his own program. Yet he gave the impression of indecisiveness and unreadiness when he faced the opposition.

DEMOCRATS AND DIXIE

Liberal Senator RICHARD NEUBERGER, Democrat, of Oregon, in a thoughtful article argues that northern Democrats must retain their working alliance with Dixie in spite of the clash over civil rights because of the still greater conservatism of the GOP. He makes an arguable case and yet we wonder if the ancient coalition isn't crumbling. Year after year the southerners take the committee posts by seniority since they come from one-party States and automatically get reelected, while the northerners have fearful struggles to survive and rarely reach the top in Congress. Now the northern liberals are further endangered by the defection of the big city Negro vote. Another price of Johnson-Rayburn southern leadership is the natural-gas bill and the outrageous 27.5 percent depletion allowance for oil.

It seems to this column that the time has come for the Democratic liberals to renegotiate their arrangement with Dixie. The southern Senators are being driven back on civil rights; the political area known as the Deep South is visibly shrinking with Republican inroads. In a presidential election southern support can be a liability. Truman won by disregarding it; Neuberger agrees that Adlai Stevenson probably paid too high a price for it. Why should Dixie get the cream of the committee chairmanships in Congress under seniority when it has so little national political strength to contribute to the party? Above all it would seem that the next Democratic presidential convention should take a friendly but firm stand: if the South wants to bolt, let it. (We find ourselves a little uncomfortable over presidential aspirant JOHN KENNEDY's flirtation with southern politicians.)

PRESSURE ON THE SOUTH

The outstanding development in the civil-rights battle is the weakness of the South. It could not block the House, 286 to 126, from passing the bill; it could not block the Senate, 45 to 39, from bypassing the Eastland committee. The direction of history is plain: Negroes are gradually accumulating economic strength, and a democracy competing in a cold war with Moscow must enfranchise them. Even more important than the bill itself, it seems to us, is to keep steady pressure on the South for improvement and to sustain that sense of inevitability which is now so evident. Senator RUSSELL's emotionalism revealed his desperation; instead of defending the whites from commingling, as he claims, he is aiding the Communists round the world in their propaganda against the United States.

T. R. B.

## SAMUEL P. GRIFFIN, CHIEF ASSISTANT DOORKEEPER

Mr. SMITH of New Jersey. Mr. President, I wish to pay a personal public tribute to a faithful Senate employee of 41 years. I regret that I was not on the floor when reference was made to him earlier in the week.

As a Member of the Senate on the Republican side of the aisle, I wish to pay a tribute to Samuel P. Griffin, Sr., Chief Assistant Doorkeeper of the Senate, who died on Monday, last.

He came from North Carolina, in the South, and had that warmth of personality which is so characteristic of all our southern friends. To all of us, irrespective of party, he was affectionally known as Griff, or Sam, both by the veterans in service here in the Chamber and by every new Member who quickly came to know him.

On behalf of the members of my staff, who had come to know Griff intimately through the years, and in behalf of Mrs. Smith and myself, I wish to express to his family our deep appreciation of his faithful service, which we have all enjoyed. He will be missed in the Senate, and the happy, congenial place he held among us will be difficult to fill.

## MORE ALICE-IN-WONDERLAND DEFENSE PLANNING

Mr. SYMINGTON. Mr. President, the Alice-in-Wonderland aspect of our defense planning is becoming more and more obvious to the American people.

It is important that everyone realizes what these "mental gyrations," as Speaker RAYBURN aptly terms them, are now doing to the security of the United States.

No one is more interested in national security than my neighbor in Missouri, Chairman CLARENCE CANNON, of the House Appropriations Committee. Nevertheless, only yesterday, Chairman CANNON announced that his committee was calling off hearings incident to atomic energy, foreign aid, and military construction because we have no basis on which to determine appropriations for the remainder of the year.

Here are but two illustrations of these current and incredible policies.

A few weeks ago, after this administration had spent more than $93 million of the taxpayers' money on a new cargo plane, the C–132, which plane would have been used by all three services, the entire C–132 program was scrapped.

Only yesterday it was announced that a program in which the Government has put more than $500 million—the intercontinental guided missile, the Navaho—was to be scrapped.

The administration explains these unique efforts toward unilateral disarmament in the face of growing Communist military strength on the grounds we cannot afford to continue our efforts to remain strong.

At the same time, President Eisenhower continues to refuse even to consider moving down the three broad avenues where great savings could be made in the military through greater efficiency.

I refer to the Cordiner report; the further service teamwork recommended by the Hoover Commission; and a true weapons systems evaluation program, which we have not had since World War II.

Recent editorials placed in the RECORD about the possibility of action in accordance with the Cordiner report have come in the main from the East and Middle West. Therefore, Mr. President, I ask unanimous consent that an editorial from the San Francisco Examiner, entitled "Action, Please," which indicates the great savings which could be made by adoption of the Cordiner recommendations, be inserted at this point in the RECORD.

I also ask that a recommendation of unanimous approval of the Cordiner report by the military affairs committee of the Kansas City Chamber of Commerce, and also embracing the summary of the report of the Defense Advisory Committee on Professional and Technical Compensation, be inserted in the RECORD with this summary at this point.

There being no objection, the editorial, report, and summary were ordered to be printed in the RECORD, as follows:

[From the San Francisco Examiner of July 2, 1957]

ACTION, PLEASE

As one of its final acts the annual conference of governors endorsed the Cordiner plan which is designed to prevent the continuous and costly drain of skilled men from the Armed Forces by a readjustment of pay and manpower practices on the basis of merit.

As one of its immediate acts Congress ought to get pushing on the bill introduced by Senators SYMINGTON and GOLDWATER to implement the Cordiner plan by legislation.

This plan was drafted after a long study by a distinguished committee headed by Ralph J. Cordiner, president of General Electric. His Committee has estimated that while it would mean greater expenditure at first, it would result in savings in the cost of national defense of as much as $5 billion in 5 years.

Economy such as this should be of more than passing interest to us taxpayers. In addition, the country would benefit by a greater combat efficiency in the Armed Forces.

The Cordiner plan has been handled as if it were a hot potato by the administration, presumably because of the budget-cutting temper of Congress and the American people, and you can include us in on that when cuts are made with a scalpel rather than a meat ax. Also, there has been a lot of confusion about the purposes and details of the plan.

We do not believe for a moment that American taxpayers are so shortsighted they would not approve expenditure of a few millions now to save billions later, especially with the dividend of increased defense effectiveness.

The Symington-Goldwater bill will do this.

JUNE 26, 1957.

BOARD OF DIRECTORS,
*Chamber of Commerce:*

The attached was unanimously approved by the military affairs committee of the chamber of commerce Monday, June 24, and the military affairs committee went on record

favoring the passage of two companion bills, S. 2014 and H. R. 7574. These two bills are designed to revise the method of computing basic pay for members of the uniformed services and other purposes.

ROLAND PETERING,
*Chairman, Military Affairs Committee.*

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REPORT OF DEFENSE ADVISORY COMMITTEE ON PROFESSIONAL AND TECHNICAL COMPENSATION, MAY 8, 1957

Under the terms of reference issued March 23, 1956, this committee was appointed to advise you concerning the adjustments that might be needed in the present provisions for compensation of officer and enlisted technicians and civilian personnel in the upper grades in order to attract and retain the competent personnel required by our defense activities.

The committee report presents an integrated program which, through modern management of the manpower in the armed services, can simultaneously reduce the cost and increase the effectiveness of the national defense. Adoption of this program in its entirety will, in our judgment, make it possible to attract, retain, and motivate the scientific, professional, technical, combat leadership, and management skills required by the Department of Defense today and in the future. It is believed the improvements will be far reaching and long lasting, and will bring in greater savings and gains with each passing year as the new systems are instituted. Such benefits cannot be achieved by half measures which adopt the terminology but kill the substance of the recommendations.

In brief, the suggested program proposes:

1. A modern compensation plan to pay people what their services are actually worth, instead of paying people on the basis of longevity of service, and in this way encourage and reward outstanding performance, advanced skills, and military careers for high-quality personnel.

2. A manpower-management plan to provide a means for proper and effective administration of the pay plan. This manpower-management plan is designed to give the Department of Defense greater flexibility and control over the distribution of skills and experience in the services and places emphasis on quality rather than quantity.

The six major results that can be achieved by means of the committee's proposals are:

1. About a 15-percent improvement in the combat capabilities of the United States Armed Forces, without a significant change in the budget.

2. Savings and gains up to $5 billion a year by 1962, or sooner, in the cost of national defense.

3. Sharp reductions in training accidents now, and in military and civilian losses in the event of war.

4. Reduction in the number of military personnel required to produce a given level of national security.

5. A long-term solution to the basic manpower problems of the armed services.

6. Improved attraction, retention, and motivation of the professional and technical civilian personnel in the Department of Defense.

In submitting this report, the Committee acknowledges the cooperation and active assistance of departments and agencies within and outside the Department of Defense. It has also had the benefit of the views and suggestions of individual service personnel of all ranks and grades.

During the course of the Committee's work, other major areas of interest affecting the ability of the Department of Defense to attract, retain, and motivate needed personnel were identified. In the time allocated for the Committee to complete its work, it became clear that the Committee could not adequately explore all of the areas identified for study. It was felt that the broad compensation subject was of such importance as to be the primary concern for the Committee. Therefore, the Deputy Secretary of Defense has directed that additional special studies be accomplished by the Department of Defense in these areas: (1) Military housing; (2) feasibility of further augmentation of the Department of Defense work force through contracts with industry.

Limitations of time also precluded the Committee from making exhaustive study of the present fringe benefits. We urge that further studies in this important area be made by the Department to determine the adequacy of the benefits now provided by law or regulation.

The Committee wishes to emphasize the importance of early completion of these studies, particularly on housing, and for prompt initiation thereafter of such specific measures as may be found necessary to correct existing deficiencies.

There is no automatic solution to Department of Defense manpower and compensation problems. The Committee believes that the instruments and approaches being recommended in this report will make effective solutions possible. We urge that the report receive the earnest consideration of the Congress and the administration because it represents an important opportunity to improve the defense capabilities of the Nation and at the same time reduce the cost of defense, the largest single item in the Federal budget.

RALPH J. CORDINER,
*Chairman, President, General Electric.*
CARTER L. BURGESS,
*Vice Chairman, President, Trans World Airlines.*

(Submitted to Hon. Charles E. Wilson, Secretary of Defense.)

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EXAMPLES OF TRAINING EXPENSES DUE TO LOSSES IN AIR FORCE PERSONNEL

Richards-Gebaur Air Force Base, Mo., 1956: Airman losses, 330; replacement cost per man, $14,800; total replacement cost, $4,884,000.

Total air defense command airman losses, 1956 (12 percent of USAF): Jet engine technicians lost, 311, cost $6.6 million; electronics technicians lost, 917, cost $18.2 million; all airmen losses, 13,551, cost, $201.5 million.

Pilot losses in air defense command, 1956: Eligible for separation, 646; actual separations, 530, 82 percent of eligibles; replacement cost, $40.2 million.

Interceptor controllers (officers) in air defense command, 1956: Eligible for separation, 491; actual separations, 442, 90 percent; replacement cost, $3.5 million.

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## CIVIL RIGHTS—PROPOSED AMENDMENTS BY SENATOR RUSSELL

Mr. RUSSELL. Mr. President, I desire to call attention, briefly, to three amendments to the bill H. R. 6127, the so-called civil-rights bill, which I have had printed.

The first amendment proposes to strike out part III of the bill. I do not think that proposal requires any further elucidation at this time.

The second amendment relates to the commission section of the bill, or part I. I think the creation of the Commission would be a mistake—I am opposed to part I and shall try to strike it from the bill. I believe however, that the most ardent proponents of the Commission will agree that if this body is created and can possibly accomplish any desirable purpose, it must be a responsible commission. It must be able to inspire confidence.

If the bill is taken up for consideration, I shall offer at the proper time an amendment to part I which would strike out the language authorizing the Commission to utilize the service of voluntary and uncompensated personnel. I cannot conceive of a more mischievous provision nor one more calculated to damn the findings and recommendations of the Commission in advance than a policy of utilizing the services of persons who have an axe to grind and who are anxious to get into the picture.

It is proposed that this Commission, if established, shall deal with some of the most delicate and controversial questions before the country. Unpaid volunteers who are spokesmen for the groups pressing for the creation of the Commission and who are now on the payrolls of such groups are bound to offer their voluntary services for special pleading and personal aggrandizement. If this Commission utilizes, on a voluntary basis, the services of the many long-haired agitators and special pleaders—or short haired or bald ones, for that matter, who make a practice of running around the country stirring up trouble, any hopes for good effects of the Commission's work are doomed from the outset and no fairminded person will accept its findings as objective.

I repeat, Mr. President, that this Commission, if authorized, must be a responsible Commission. There can be no valid reason to allow this body to accept the voluntary services of persons who have already made up their minds as to every conceivable phase of its work and who are recognized as advocates.

The third amendment I shall propose likewise seeks to make the Commission a more responsible body. Section 105 of part I provides for the appointment of a staff director for the Commission. As practical men, Mr. President, we all know what will happen if part I should unfortunately be enacted into law.

The President will undoubtedly seek to find six outstanding and well-known American citizens to serve as members. But as practical men who have watched the creation and operations of other commissions over a period of years, we all recognize that the full-time staff director of the Commission and its executive officer will in fact direct its work. He will determine the nature and the scope of any investigations the Commission may conduct.

So, Mr. President, in an effort to assure some measure of responsibility in the Commission and to get as responsible a staff director as possible, I shall propose an amendment directing that this official be appointed by the President, by and with the advice and consent of the Senate. To attract a capable and responsible man to this post, the amendment provides that the director shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year.

The proposed Commission will have almost unlimited power of investigation. If it creates the impression in the course of its work that it thinks it is dealing with criminals and barbarians, it will work irreparable harm. I hope that the

Senate will not authorize this Commission, but if it is to come into being the law creating it should at least seek to make it a responsible, unbiased group. If created it will be endowed with such vast powers that only responsible full-time employees of the Government of the United States, of the very highest type, should be included in its personnel and carry on its work.

Mr. President, I invite the attention and study of all my colleagues who are truly interested in a fair course of action to these amendments. Any fair-minded man will agree, I think, that we should take every possible step to remove any appearance of establishing an inquisitorial body, biased and slanted at the outset to a previously determined course of action and prejudiced decisions.

Mr. CASE of South Dakota. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I am glad to yield to the Senator from South Dakota.

Mr. CASE of South Dakota. Mr. President, I think the amendments are very interesting.

The amendment the Senator from Georgia suggests with respect to the appointment of a full-time staff director also provides for striking out the lines of that part of the bill which provide for the appointment of other personnel, I believe.

Mr. RUSSELL. Oh, no; if the Senator from South Dakota will read the amendment carefully, he will see that is not the case. I am not trying to trick anyone by means of the amendment. I am offering the amendment in absolute seriousness; I was never more serious in my life.

Mr. CASE of South Dakota. I am sure of that.

Mr. RUSSELL. If the Senator from South Dakota will read the amendment, he will see it provides for the insertion of certain words on page 6, in line 13, after "a." The amendment strikes out only the language having to do with the staff director. If there is any question about that, I shall be very happy to modify the amendment, because I realize that if there were only a staff director, the Commission itself could not function.

Mr. CASE of South Dakota. Then I understand that the amendment of the Senator from Georgia would leave in the bill the words—

The Commission may appoint * * * such other personnel as it deems advisable.

Mr. RUSSELL. That portion of the bill now reads as follows:

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws.

I propose, on page 6, in line 13, after (a), to insert the following:

There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of staff director.

Then, on page 6, in lines 14 and 15, strike out "a full-time staff director and."

As thus amended, that part of the bill would then read, following the language I have just read about having the President make the appointment:

Within the limits of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the act of August 2, 1946—

And so forth; that is to say, at the rate of pay for experts.

Mr. CASE of South Dakota. Mr. President, the statement the Senator from Georgia has just made clarifies the matter.

Mr. RUSSELL. Mr. President, I was never more serious. If some persons are to dash to Washington and persuade the Commission to appoint some special pleader to this most important post, the project will be doomed from the beginning. If persons of that type, with biased points of view, and who are not regular Government employees, are to be appointed, and are then to proceed to harass and hound those who may be subjected to investigation under the provisions of the bill, the efforts of the Commission will be futile and even harmful.

## SEGREGATION IN SCHOOLS AND JURY TRIALS IN CONNECTION WITH CONTEMPT PROCEEDINGS

Mr. DOUGLAS. Mr. President, one of the ablest columnists of the country, who frequently is regarded as the voice of the Deep South, is Mr. John Temple Graves, who writes a column for the Birmingham Post-Herald.

On June 23, 1955, or more than 2 years ago, Mr. Graves wrote a very interesting article, under the usual caption of his column This Morning, which began with these words:

"Not guilty. Not guilty. Not guilty."

The first paragraph of this article reads as follows:

Is the South's ultimate answer 10,000 juries saying, "not guilty"?

I read further from the article:

One thing is more powerful than the Supreme Court. That is a jury.

When and if all else has failed, southern juries might simply say "not guilty."

In the article Mr. Graves went on to say:

When Mississippi's attorney general points out that southern school or college officials who refuse to obey a Federal district judge's order to integrate will have to face contempt proceedings, is he aware that such proceedings would entitle defendants to a jury trial?

Then there is this very significant sentence:

With southern opinion what it is, a "not guilty" verdict could be had in most cases. And there is no appealing a "not guilty."

Mr. Graves continued for some paragraphs, and then he wrote the following:

The "plot" runs like this—

And in justice to Mr. Graves, I wish to point out that the word "plot" is printed in quotation marks—

1. A Federal district judge would order a school board or principal to integrate a school.
2. The board or principal would refuse.
3. The court would cite for contempt.
4. A jury trial would be demanded.
5. The jury would hand down a "not guilty" verdict.
6. No recourse short of an act of Congress would suffice.
7. No act could be passed.

Mr. President, I ask unanimous consent that the entire editorial be printed at this point in the RECORD, in connection with my remarks; and again I call attention to the fact that the article appeared 2 years ago. I point out that it may have suggested to some of our friends the desirability of insisting on the inclusion in the civil-rights bill of a provision for a jury trial.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham Post-Herald of June 23, 1955]

THIS MORNING

(By John Temple Graves)

"NOT GUILTY—NOT GUILTY—NOT GUILTY"

Is the South's ultimate answer 10,000 juries saying, "Not guilty"?

One thing is more powerful than the Supreme Court. That is a jury.

When and if all else has failed, southern juris might simply say, "Not guilty."

There would be no recourse—short of an act of Congress which southerners have power to ward off with parliamentary tactics, including the filibuster.

When Mississippi's attorney general points out that southern school or college officials who refuse to obey a Federal district judge's order to integrate will have to face contempt proceedings, is he aware that such proceedings would entitle defendants to a jury trial?

With southern opinion what it is, a "not guilty" verdict could be had in most cases. And there is no appealing a "not guilty."

One of the country's ablest lawyers, southern-born-and-reared, now practicing nationally from New York, for many years an assistant to the Attorney General of the United States, is convinced that the jury is the South's answer.

A 1948 law extending a provision of the Clayton Act (sec. 361, title 18, ch. 233 of the United States Code) provides that defendants are entitled to jury trial "whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree or command of any district court by doing or omitting any act or thing in violation thereof and the act or thing done or omitted also constitutes a criminal offense under any act of Congress or under the laws of any State in which it was done or omitted. * * *"

The so-called civil rights statutes passed in 1949 make it a criminal offense to deprive anyone of rights secured to him by the Constitution or laws of the United States (secs. 241, 242, title 18, United States Code).

The plot runs like this:

1. A Federal district judge would order a school board or principal to integrate a school.
2. The board or principal would refuse.
3. The Court would cite for contempt.
4. A jury trial would be demanded.

5. The jury would hand down a "not guilty" verdict.

6. No recourse short of an act of Congress would suffice.

7. No act could be passed.

Who says that what is possible under the letter of the law is wrong in a crisis like this? Certainly not the Supreme Court which has used the letter to plot against such basic principles as separation of powers and rights of States, for legislation it was never supposed to undertake, for executive action contra to the Constitution's intent.

Mr. DOUGLAS. Mr. President, I also ask unanimous consent to have printed in the RECORD a very able editorial published in the distinguished Catholic journal America. The editorial is entitled "Mockery of Jury Trial," and is signed by the eminent and deeply respected and beloved Father John LaFarge, the son of the great painter LaFarge.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MOCKERY OF JURY TRIAL

(By John LaFarge)

There is nothing surprising, according to the old saying, in the news that the Dutch have taken Holland. So nobody was particularly amazed when on May 30 an all-white jury in Montgomery, Ala., acquitted two young white men of the bombing of a Negro church. (Four churches, the homes of 2 ministers supporting integration, a Negro taxicab stand and an adjoining residence were bombed in 2 outbreaks of terrorism following the end of bus segregation in Montgomery.)

According to reports, the defendants made no serious attempt to disclaim the crime as charged. Rather, they were proud they had committed this outrage. Their defense appealed in lurid language to violent passions of racial and regional chauvinism. The prosecution based its ineffective argument, not on the law of the land, but on appeals of another sort: fear and race prejudice. It was argued that if these men were acquitted the NAACP would use the event as a reason to support its own activities. This cynical bit of reasoning, incidentally, was perfectly sound.

More disturbing even than direct appeals to passion was the fact that this violation of elementary justice was executed by an ancient, highly prized legal institution, traditionally regarded as the safeguard of our liberties. An accused man is to be judged by his peers. The peers in this instance did judge, and they decided that the crime was to be commended.

This irresponsible action will cause no small embarrassment to the doughty Members of Congress who are endeavoring to kill proposed civil-rights legislation. They are trying to attach an amendment that would require civil-rights cases to be determined by jury trial and not by injunction. But here was a jury in action—not in a backwoods village but in the heart of a great metropolis—and this is what it produced. The same jury also did its best to undermine the widely proclaimed axiom that the South will settle its own affairs if given the chance and left alone.

Goings-on in Montgomery may be a blessing in disguise, however, if they help to remind the whole country of the mischief done right in our midst by selfish and crafty manipulations of race prejudice. A member of a Catholic parish writes in the St. Louis Review for May 31, objecting strenuously to incessant propaganda from real-estate people, appealing to the basest instincts in both whites and Negroes, stirring up panic and strife in specially designated areas for one purpose only: artificial stimulation of the market for property in one area by destroying the value and desirability of that in another.

Why do not white residents, asks the same parishioner, see the folly of constantly jumping to such bait as these interested agencies provide? And why do the Negroes not see the equal folly of letting themselves be used as slaves and pawns of people playing upon popular prejudice and panic?

Such shady stratagems lead by devious paths to the same goal as the Montgomery mockery of jury trials: racial conflict and the destruction of our peaceful American way of life. While deploring what happens elsewhere, we can look to our own backyards. The more intelligently we combat the agents of discord at home, the more effective will be our support for the brave men and women who are combating race prejudice in the South.

Mr. DOUGLAS. Mr. President, I also ask unanimous consent to have printed in the RECORD an editorial which appeared in the Wilmington Journal-Every-Evening, a distinguished and conservative publication, which under date of June 1 of this year discussed the question of trial by jury, and went into the question of whether southern juries would acquit guilty officials, in disregard of the facts. The editorial cites the unfortunate incident in Montgomery, Ala., and concludes by saying:

The right of trial by jury is basic. It is not threatened by long-established injunction practices. But it is grossly perverted wherever juries acquit men they know to be guilty. If the civil-rights law is amended to permit—and encourage—such perversions, the right to a jury trial will not be strengthened, but weakened.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRIAL BY JURY

The right of an accused person is a basic American right. So is the right to vote. Good liberals and good conservatives uphold both. But in Congress some of them may be confused when southerners tell them they must not pass a civil-rights law protecting the right to vote because that law would take away the right to trial by jury.

It is a false issue. The proposed legislation says that officials who try to keep people from registering and voting may be enjoined to stop the process by a Federal court. And if they disobey the court, they may be sentenced for contempt. Now whether a man has obeyed a clear court order is a matter of fact, easily established. No jury is needed to protect his rights because they aren't in danger. Obviously, if he obeys the court, the court is not going to punish him for disobeying.

This principle is so well established that it has hardly been brought into question until now. In matters far less important to us all than the right to vote, judges issue injunctions and punish defiance of them, all without the help of juries. Some of the very States which profess to be concerned over the right to vote have passed laws forbidding the NAACP to engage in activities such as assembly and propaganda, which are constitutional rights. NAACP officials who engage in such activities are subject to injunction, and to punishment without trial by jury if they disobey.

The reason southern congressmen are insisting on trial by jury of persons charged with violating civil-rights injunctions is that they expect southern juries to acquit guilty officials in disregard of the facts. If you think they wouldn't do just that, you haven't read about what happened this week in Montgomery, Ala.

A jury there acquitted two young white men charged with bombing four churches, a Negro taxi stand, two ministers' homes, and other houses. Were they guilty? Their lawyer talked as if he thought they were.

The lawyer said their acquittal would give encouragement to every white man, woman, and child in the South who wanted to preserve our sacred traditions of segregation. He said a verdict setting them free would go down in history as saying to the Negroes that you shall not pass. Clearly, an acquittal could not have such effects if the accused were innocent.

The right of trial by jury is basic. It is not threatened by long-established injunction practices. But it is grossly perverted wherever juries acquit men they know to be guilty. If the civil-rights law is amended to permit—and encourage—such perversions, the right to a jury trial will not be strengthened but weakened.

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## OVER 150 YEARS OF COMMUNISM—ARTICLE BY H. RALPH BURTON

Mr. MARTIN of Iowa. Mr. President, Attorney H. Ralph Burton served for many years as counsel to the Committee on Military Affairs during my service on that committee in the House of Representatives. I found him to be an outstanding student, as well as exceptionally good legal counsel, on every occasion I had the opportunity to consult him.

Mr. Burton has written many helpful articles in the field of preparedness and of foreign relations, and I have heretofore had occasion to place some of his writings in the CONGRESSIONAL RECORD. My attention has just been called to another statement of his which I consider especially worthy. I ask unanimous consent that Mr. Burton's complete statement be printed with my remarks in the body of the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OVER 150 YEARS OF COMMUNISM

(By H. Ralph Burton)

It is high time to recall that the effect of the renunciation of Stalinism by Communist Russia, on the part of at least some of those in control, has been to revive those policies which look toward world control even more forcibly than those of Stalin did. It seems entirely appropriate to suggest that reports which were issued by the State Department of the United States during the early years of Lenin's control, concerning the interrelations of the international Communist conspiracy and Russia itself under the Communist regime, are pertinent today. Those reports, which are now almost forgotten, are replete with data which can serve today as a warning to those in the Government of the United States who seem to believe that there may be a sincere desire on the part of the Communist regime to negotiate peace terms honestly. It should help to convince any open mind that observance of any such agreements on the part of Communists is basically foreign to their philosophy and procedural policy.

Following are some excerpts from the reports referred to above, issued by our State Department in 1919 and 1920, which seem to be entirely unknown to, or overlooked by, our Congressional leaders and Executive officials, although they can be found in the State Department's files.

In the Memorandum on Certain Aspects of the Bolshevist Movement in Russia on

October 27, 1919, by Secretary of State Robert Lansing to Honorable Henry Cabot Lodge of the United States Senate, there were stated, among other things, the following:

"I have the honor to send you herewith, for the information of the Committee on Foreign Relations of the Senate, a memorandum on certain aspects of the Bolshevist movement in Russia.

"The memorandum has been prepared from original sources by the Division of Russian Affairs of the Department of State. As you will see, the statements are based almost entirely on translations from Bolshevist newspapers. These include the official organs of the All-Russian Central Executive Committee of Soviets, of local Soviet committees, and of the Russian Communist Party (Bolsheviks). The Bolsheviks' own statements are supplemented by the reports of American representatives."

* * * * *

"Since the overthrow of the autocracy in March, 1917, the Department of State has studied developments in Russia with the sympathy which America has traditionally shown toward all movements for political and social betterment. The study which has been made of the Bolshevist movement, some of the results of which are furnished herewith, shows conclusively that the purpose of the Bolsheviks is to subvert the existing principles of government and society the world over, including those countries in which democratic institutions are already established. They have built up a political machine which, by the concentration of power in the hands of a few and the ruthlessness of its methods, suggests the Asiatic despotism of the early Tsars. The results of their exercise of power, as shown by the documents presented in the accompanying memorandum, have been demoralization, civil war, and economic collapse. I commend to your careful consideration the detailed information which the memorandum contains."

A portion of the memorandum mentioned reads as follows:

"The theoretical 'dictatorship of the proletariat,' acknowledged to be the rule of a minority, with a definite policy of preliminary destruction, is found in fact to have degenerated into a close monopoly of power by a very small group, who used the most opportunistic and tyrannical methods, including 'mass terror!' "

* * * * *

"One of the main aims of the Bolshevist leaders from the very beginning has been to make their movement a world-wide social revolution. They insistently declare that success in Russia depends on the development of corresponding social revolutions in all other countries. Bolshevist policies and tactics are subordinated to the idea of the international proletarian revolution. *Apparent compromises with 'bourgeois' governments or countries have proved temporary and tactical.*" (Italics are ours.)

"CHARACTER OF BOLSHEVIST RULE

" 'DICTATORSHIP OR PROLETARIAT'

"The theoretical purposes of the Bolsheviks are clearly set forth in the following statement of aims which was embodied in the call for the first Congress of the new Revolutionary Internationale (later called the Third or Communist Internationale), as having been worked out in accordance with the programs of the Spartacus Association of Germany and the Russian Communist Party (Bolsheviks). As wirelessed by the Bolsheviks from Petrograd January 23, 1919, this statement contained the following:

" 'The present is the period of destruction and crushing of the capitalist system of the whole world.

" 'The aim of the proletariat must now be immediately to conquer power. To conquer power means to destroy the governmental apparatus of the bourgeoisie and to organize a new proletarian governmental apparatus. This new apparatus must express the dictatorship of the proletariat.

" 'The dictatorship of the proletariat must be the occasion for the immediate expropriation of capital and the elimination of the private right of owning the means of production through making them common property.

" 'In order to protect the socialist revolution against external and internal enemies and to assist the fighting proletarians of other countries, it becomes necessary to disarm entirely the bourgeoisie and its agents and to arm the proletariat.' "

I do not recall ever having heard of any document issued which contravenes the foregoing statement by the State Department, nor even a modification of it; therefore, we must assume that the purpose of the Bolsheviks, now called Communists, remains the same, that is, the entire disarmament of the Free World and its agents, by any deception possible, and to arm themselves to the teeth. That being true, it seems utterly futile even to discuss disarmament with the Russians, and the assertions of certain aspirants during the campaign of 1956 advocating cessation of bomb tests and discontinuance of the draft become all the more nonsensical, which is probably a gross understatement. This is definitely confirmed by the sentence in the above quotation, "apparent compromises with bourgeoisie governments or countries have proved temporary and tactical."

A report entitled "A Collection of Reports on Bolshevism in Russia" was presented to the English Parliament by command of His Majesty in April 1919 and published by His Majesty's Stationery Office (similar to the Government Printing Office in our country). It contains reports of atrocities perpetrated by the Communists in the suppression of the Russian people and their subjection to the Communist minority rule. According to the statement on the cover of the report, it was purchasable through any bookseller or directly from His Majesty's Stationery Office by giving the various addresses where it could be found. However, shortly after the Labour Government came into control in England after the First World War, it became impossible to purchase one of these reports, for reasons which, as far as I know, never have been explained.

Following are several quotations from this report of atrocities of Russia:

"Nos. 19 and 20 are 2 of 12 labourers arrested for refusing to support Bolshevik Government, and on 12th July thrown alive into hole into which hot slag deposits from works at Verhisetski near Ekaterinburg. Bodies were identified by fellow labourers."

* * * * *

"Nos. 27 to 33, accused of plotting against Bolshevik Government, arrested 16th December at village of Troitsk, Perm Government. Taken 17th December to station Silva, Perm railway, and all decapitated by sword. Evidence shows that victims had their necks half cut through from behind, head of No. 29 only hanging on small piece of skin."

* * * * *

"No. 62 arrested without accusation, 8th July, at village Ooetski, Kamishlov district. Body afterwards found covered with straw and dung, beard torn from face with flesh, palms of hands cut out, and skin incised on forehead."

It appears, therefore, that it makes little difference whether Stalinism is renounced and Leninism is resumed, as far as the suppression of freedom is concerned, as illustrated by recent efforts in Hungary which provided new examples of the cruelties inflicted wherever Communism has gained the upper hand throughout the years.

It seems, in view of this, that for the United States to extend official congratulations to the Communists on the anniversary of the Revolution of 1917 seems hardly consistent with our ideals and traditions, to say the least.

Following are some examples of atrocities reported by official representatives of the British Government, as set forth in the collection of reports heretofore cited:

"General Poole to War Office.—(Received January 12.)

"(Telegraphic) *"January 11, 1919.*

"* * * There is evidence to show that commissariats of free love have been established in several towns, and respectable women flogged for refusing to yield. Decree for nationalisation of women has been put into force, and several experiments made to nationalise children."

* * * * *

"Mr. Alston to Mr. Balfour.—(Received January 15.)

"(Telegraphic)

"VLADIVOSTOK,
*"January 14, 1919.*

"I have received following from consul at Ekaterinburg, dated the 13th January:

" 'The number of innocent civilians brutally murdered in Ural towns run into hundreds. Officers taken prisoners by Bolsheviks here had their shoulder straps nailed into their shoulders, girls have been raped, some of the civilians have been found with their eyes pierced.' "

* * * * *

"Mr. Alston to Earl Curzon.—(Received February 3.)

"(Telegraphic)

"VLADIVOSTOK,
*"February 2, 1919.*

" 'He thought wholesale murder or bodily torture was the exception, but he confirmed reports of people being led out to be shot several times. Many people went mad under this and similar mental agony.' "

* * * * *

"Lord Kilmarnock to Earl Curzon.—(Received February 11.) Atrocities perpetrated by the Bolsheviks in Esthonia.

* * * * *

"How the victims were executed by the Bolsheviks is described by one of these unfortunates, Proprietor A. Munstrum, who managed to save himself by a miracle:—'On the afternoon of the 11th January, fifty-six of us were led to the place of execution, where the grave was already made. Half of us, including six women, were placed at the edge of the grave. The women were to be killed first, as their cries were so heartrending the murderers could not listen to them any longer. One woman tried to escape, but did not get far. They fired a volley, and she sank to the ground wounded. Then the Bolsheviks dragged her by the feet into the grave. Five of the murderers sprang after her, shot at her, and stamped on her body with their feet till she was silent. Then a further volley was fired at the other victims. In the same way they were thrown into the graves and done to death with butt-ends and bayonets. After which the murderers once more stamped on the bodies. * * *' "

"IN DORPAT

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"Dr. Wolfgang, of Reyher, who shortly after the murders—the bodies were still warm—examined the above-mentioned cellar of the Credit-system Bank, and reports the following with regard to the appearance of the room where this foul deed took place: The floor of the whole room was covered with bodies, piled one upon the other in most unnatural positions, which could only be attributable to a violent death. In the middle the bodies were in three layers, wearing only underclothing. Nearly all had shots in the head, which had been received recently, because in a few cases the skull had been totally shattered, and in one case the skull

hung by a thread. Some bodies showed signs of several shots. All was thick with blood, also on the bed and on the walls congealed masses of blood and pieces of skull were to be seen. I counted twenty-three bodies, but it was easy to make a mistake, as it was difficult to recognize individual bodies in the heap. Not a bit of the floor was clear, so that I had to trample over bodies to reach others. The search for a sign of life was in vain."

* * * * *

"General Knox to War Office.—Vladivostok, March 4, 1919.

"At Blagoveschensk officers and soldiers from Torbolof's detachment were found with gramophone needles thrust under their fingernails, their eyes torn out, the marks of nails on their shoulders where shoulder straps had been worn. Their bodies had become like frozen statues, and were hideous to look upon. These men had been killed by Bolsheviks at Metzanovaya and taken thence to Blagoveschensk."

Recently not only our country, but almost every other country in the world, was aghast at the horrors perpetrated in Hungary, but they can be seen as true to the pattern existing since communism began in the latter part of the 18th century, and true to the nature of the beast of communism, evidencing itself again whenever any resistance is raised to its despotic rule.

Let us now turn back some pages of history and determine just what the record of communism is, in order to impress the reader intelligently that this basic tenet of communism, brutality, is not just something of recent years, but has been so from its original conception.

Three times within a hundred years, communism reared its hydra head in the stricken city of Paris, when it was torn by the desperation of its suffering peoples. Three times in a century, in one country alone, Communist leaders stood ready to inflict their doctrines when human resistance was at a low ebb, susceptible to the luring lies of those ready for the long and patiently awaited opportunity. Each time, repeated efforts were made to destroy government and supplant the leadership of the people with their own, through ruthless murders without trial, and above all to eliminate religion and replace it with atheism. In November of 1793, midst the horrors of the great revolution of that period, atheism reigned supreme; the National Convention abolished the Sabbath, and the leaders of the Paris Commune declared that they intended to dethrone the King of Heaven as well as the monarchs of the earth. Finally, November 10, 1793, the leaders of the Paris Commune—Norbert Chaumette, Nomore, and the Prussian anarchist, Clootz, prevailed upon the National Convention to decree the abolition of the Christian religion in France.

Again, in 1848, there was a revival of the Paris Commune with its same doctrines and, in the revolution of 1871, when all France was suffering from a devastating war, the Commune again came into being with atheism to the forefront, and human carnage was so horrible that words are unable to describe it adequately.

When this insurrection began in May 1848, it was only a prelude to the great Communist rebellion of June. Fearing another demonstration on an extensive scale, the Government made the necessary preparations to meet it. Finding the burdens imposed upon the national treasury too heavy to be borne, the Government, in June, resolved upon the discharge of the immense army of workmen, more than one thousand in number, uselessly employed in Paris at the public expense. This alarmed the workmen, who immediately organized for another desperate struggle, for the purpose of bringing about the realization in practice of the theory of communism and socialism.

Once more and with greater horror, if such can be conceived in the imagination of humans, communism took its toll. After the communal elections in Paris on the 26th of March 1871, which resulted in an overwhelming majority for the revolutionists, the Commune was organized, having its first sitting on the 29th of March. A reign of terror was now inaugurated in Paris, and the outrages of 1793 were repeated. The cries of the Socialists and Red Republicans were:

"Death to the priests!" "Death to the rich!" "Death to the property owners!"

Aristocrats and wealthy persons were in constant danger of being dragged to the guillotine, and more than one hundred thousand of the more respectable Parisians fled in consternation from the city. Priests were arrested and thrown into prison, churches were sacked, and religious service was suspended; journals which supported the Versailles government were oppressed, and several journalists were sentenced to death. The insurgents boldly avowed their determination to march to their side and disperse the National Assembly, overthrow the Thiers government, and establish the "Universal Republic."

The Paris Commune finally grew desperate, and the most shameful outrages and revolutionary excesses were perpetrated. Additional numbers of priests and nuns were thrown into prison, and at length a demand was made on the Church for one million francs, the insurgents threatening to kill the Archbishop of Paris if the sum was not paid. The Archbishop suffered later, with others of the church, the most shameful treatment from a band of infuriated Reds.

Americans of prominence in both social and official circles have openly advocated the introduction of Communist doctrines, limitation of constitutional rights, control by centralized authority, economic planning for the entire United States, breaking down of State lines, and the establishment of a strong Federal police force (in other words, a "Red Army") to enforce the orders of autocratic bureau chiefs seeking to regulate the activities of every individual, the use of his property, the hours of his work, and, in fact, every activity of his daily life. Public expressions of others, either directly or by analysis, and comparison with the principles of communism show only too clearly a desire to substitute Russian Communist institutions for those existing under our constitution. That being so, where can the line of demarcation be drawn?

I think it is very fitting to include a quotation from the address of Daniel Webster on the "One Hundredth Anniversary of the Birth of George Washington," when he said:

"Other misfortunes may be borne, or their efforts overcome. If disastrous wars should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests. It were but a trifle, even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, if these columns fall, they will be raised not again. Like the Coloseum and the Parthenon, they will be destined to a mournful and melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art; for they will be the remnants of a more glorious edifice than Greece or Rome ever saw—the edifice of constitutional American liberty."

The plans of a group of theorists are always interesting, but such plans become of immediate concern only when carried into execution. And when it has been determined beyond all reasonable doubt that an organization of clever schemers, having a large following and unlimited financial backing, is actually in control of a government, the matter is of grave concern. Further, when such a group openly carries on worldwide propaganda to accomplish such ends, and is actively at the work of disruption of other governments through destruction of industry, counteraction becomes imperative.

As early as the latter part of the 12th century, there was an organization known as the "Confrerie de la paix," whose principles were much the same as those which exist today. They believed that all wealth should be equally distributed, and their ideas were to destroy, to break down, to level; and they began to burn chateaus and cathedrals, and to destroy works of art; but the government was too strong, and they themselves were destroyed.

The next effort we hear of was that of the Society of the Illuminati, organized by a Bavarian professor by the name of Adam Weishaupt. It was a very carefully worked out and cunningly devised society, built on the idea that there should be different degrees, the extent of knowledge increasing in the ascending degrees. Weishaupt himself was the principal. Only a comparatively few friends were fully advised as to the designs and policies which were to be carried out. The lower degrees, especially when it came to the working or less educated class, knew practically nothing of what was going on. The great principle was secrecy. The leaders went under assumed names; the society itself was not to be known, and its operations were conducted by devious underground methods.

The basic principles on which this Society of the Illuminati, really a communistic society, was founded and which underlie all organizations of this character which have existed from that day till this, are as follows:

Abolition of government;

Abolition of private property;

Abolition of inheritance;

Abolition of patriotism;

Abolition of the family (including abolition of marriage, the destruction of all morality, and the institution of communal education for children);

Abolition of all religion.

Coming down through centuries, that sinister force of resentment against the progressive power of culture and fair dealing stalks about with its determination to destroy, to effect reversion to the primitive, and to subject the people at large to a domination which aspires to control of the untutored masses and the utter destruction of religion, patriotism, and the sanctity of the family. Driven by an ambition to attain an objective which was defined and disclosed by the activities of the French Commune, it persisted through the decades until it manifested itself in our day in the Russian Revolution, compared to the horror of which the French Revolution was but a gesture. It exists today, determined to subject our country with others to a retrogressive policy which would make the work of generations but a futile effort.

### THE FIRST INTERNATIONALE

Karl Marx became the leading exponent of communism in the middle of the 19th century. His Communist Manifesto and his book entitled "Das Kapital" still remain the bible of the Communist world. There was one thing above all, however, which he accomplished. Up to his time, the idea of communism had been national in extent. While Weishaupt had conceived the idea of an

international organization, he had never been able to carry it out.

Marx organized the First Internationale. Even this he copied from the associations of certain workmen who were desirous of widening and increasing their influence and bettering their condition. It should be noted that Marx's activities occurred just previous to, during, and after the German Revolution of 1848 and the Second French Revolution, and here again Marx and his disciples wielded the same baneful influence and produced the same sanguinary results that were produced by Weishaupt and his adherents in the First French Revolution. They were responsible for the terrible bloodshed in the Paris Commune after the overthrow of the French Government in 1871.

THE SECOND INTERNATIONALE

The Second Internationale was formed about 1889 to 1890. It operated with varying strength and influence until the World War, when the radical element in it, being disgusted with its mild tendencies, overthrew it and organized the Third Internationale.

THE THIRD INTERNATIONALE

The Third Internationale was organized immediately after the World War with the design of overthrowing existing governments and establishing revolutionary governments. Its chief exponents and leaders were Russians, who found in Russia the best opportunity for their designs. It will be recalled that the first revolutionary efforts in Russia were not communistic or bolshevistic. Kerensky became its chief exponent, but, for being too mild by nature, he was thrown aside and the real revolutionists, led by Lenin and Trotsky, established the Third Internationale, formed the Russian Communist Party, and organized the Russian Soviet Republic. The Third Internationale is a radical organization supported by Red advocates from all over the world in its efforts to promote world revolution, and is now in operation.

A careful and exhaustive study shows that there is at the present time, and has been for years, a strategic plan of action to obtain complete political, industrial, and economic domination of the world by the international radical forces, and that the plan of action is unmoral and ruthless in the extreme, founded expressly upon the propositions that might is right, that politics have nothing in common with morals, and that the ultimate end is to subjugate all governments to a supergovernment controlled by the international radical forces. This plan by which complete world domination is to be achieved by the Reds may be briefly summarized as follows:

1. The national power of various countries is to be broken down by the fomenting of international revolutions, through appeals to class hatred, and by pretended efforts to obtain greater freedom and privileges for certain classes of people, using the words "liberty, equality, and fraternity" merely as catchwords to gain recruits for the cause. Autocratic governments which alone are strong must be weakened in the first instance by the introduction of liberalism, which will pave the way to anarchy.

2. All wars must be shifted to an economic basis, allowing no territorial advantages to result from war, and thus tending to make the radical control of all property the determining factor in war.

3. The countries in question are to be further weakened by promoting false, conflicting political policies, by obtaining control over the actions of public officials, by manipulation of the press, and by the gradual elimination of free speech.

4. The authority of democratic governments is to be weakened by the destruction of religion.

5. To overcome the resistance of those states which are unwilling to submit to this power, there must be no hesitation in resorting to violence, cunning, hypocrisy, threats, treason, or the seizure of property.

6. The destruction of the social and economic structure of these states will also be brought about by the destruction of industrial prosperity through speculation and constant strikes, through widespread unemployment, through the raising of wages in such a way as to increase the cost of the necessities of life, and finally by bringing about a general economic crisis and the disorganization of financial systems.

7. Upon the social and political chaos created by these various means, a Red dictatorship is to be gradually built up, principally through the power of the press and through the revolutionary labor movement.

8. During the period of transition to this political control in every state, a secret radical government will be established which will devote itself to misleading public opinion, mass terror, weakening the initiative of its opponents, misdirecting their education, and sowing discord among them.

One of my first articles on communism, then known as bolshevism, was written in 1919 and was published by the Manufacturers Record of Baltimore, Maryland. Having been brought to the attention of a member of Congress from Iowa, the Honorable Thomas E. Martin, now Senator from that State, it was inserted in the CONGRESSIONAL RECORD, volume 97, part 15, page A6454. The concluding paragraph in that article read, "Until the people of the United States not only realize that their safety, both for the immediate and for the future, lies in controlling bolshevik forces wherever they exist, but also voice that feeling publicly so that the officials of our own Government may know that they desire immediate, forceful and determined action to accomplish this purpose, we may expect chaos to reign supreme in the affected nations, with the ever-constant danger of its spreading in every direction."

It is to be hoped that our policy of placating and taking the course of least resistance, with the hope that it will eventually bring about the end of Communist demands, will soon stop, for it has availed us nothing so far. Since this policy has been followed, North Vietnam and millions of its population are now behind the Iron Curtain; the Tachen Islands were surrendered to the Chinese Reds in the hope that this would lessen the "danger"; Afghanistan is now under Communist domination; Cambodia and Laos are "neutral," and Laos is reported to be accepting communism in its government. These concessions followed the Korean cease-fire, when practically everything demanded by the Communists was yielded to them due to failure on the part of the United States to pursue its clear opportunity to drive the Communists from Korea, thus depriving us of victory for which there is no substitute, as General MacArthur has said. Never before had this Nation failed to vanquish its foes and dictate all the terms of surrender or armistice. Therein lies a lesson because of its similarity to the first compromise of its kind ever made by the Roman Empire, as near like our own civilization as can be found in history, when Theodosius compromised with the northern barbarians for a peace. This, it is hoped, is not significant, for at the time of Theodosius, the western Roman civilization was rapidly approaching its end. Today the tempo is faster.

## ORDER OF BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

Under the order entered on yesterday, providing that at the conclusion of the morning hour today, the Senator from Montana [Mr. MANSFIELD] shall be recognized, the Chair now recognizes the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, without losing the floor, I may yield for 15 minutes to the junior Senator from New York [Mr. JAVITS].

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered; and the Senator from New York may proceed.

## CIVIL RIGHTS

Mr. JAVITS. I thank the Senator from Montana. There are some remarks I wish to make on the pending civil rights matter. I appreciate the courtesy of the Senator from Montana in giving me this opportunity to speak on the subject.

I wish first to speak of a statement made yesterday by the Senator from Georgia, which moves me, and I believe other Members of this body, very deeply. I repeat it because I think it is an important statement for us to bear in mind. He said:

> We ask, Mr. President, that we be dealt with justly and fairly, as each Member of the Senate would ask to be dealt with if he should in the future be placed in the position that we occupy.

Those of us who are deeply devoted to the measure which is before us are very familiar with all the implications of that point of view, because we recognize a way of life, an order of society, born out of deep struggle for generations, of which we see now the results in the social order, largely in the South.

Perhaps deeds are better than words in expressing the reasons and responsibility which I feel involved in such a statement, and so I offer these points.

In the State of New York we have a network of civil rights laws which are far more comprehensive than anything proposed in this measure.

We have, for example, laws which prevent discrimination in various types of housing, in places of public accommodation, in the National Guard, in higher education, and which prevent discrimination in jobs, and in opportunities for employment—the so-called FEPC laws. Nothing like those laws is here involved. I might say, parenthetically, that is the reason why so many of us who are strongly for civil-rights legislation have felt we were right—and I think very justly so—in maintaining that this bill is a very moderate bill, as it indeed is; but in the State of New York, which has such a network of laws, the main emphasis in terms of enforcement is upon mediation, conciliation, and technical assistance, and, in the final analysis, injunctive relief. Criminal penalties are very little in evidence, and the whole success of the operation of these laws in New York—and they have been very successful—has been based upon the intelligence, the care, and the wisdom with which mediation and conciliation have in the first instance been employed—one further bit of evidence as to my own deep feeling as to how important that is.

We are considering in the city of New York, in our city council, a law against

bias or discrimination in private housing. I was one of two citizens of New York who urged this very week that our city government should not impose criminal sanctions for the enforcement of such a law, but, on the contrary, should also entrust it to a commission, so the administration of the law and its enforcement might proceed, as we do in the State of New York, through mediation, conciliation, and technical assistance, backed up by injunctive relief.

I say that because we understand, I think, what the Senator from Georgia was talking about. We respect it, and we intend to show that by our responsible conduct at the time debate is in full swing. But I think it is also important to understand that in the civil-rights bill before us—and though it is in its preliminary stages and we shall be voting on a motion only to make it the pending business—it is also a fact that no one wants to make the bill the pending business unless it has a chance of enactment and some case be made out that it will be effective. Very briefly, without considering all the individual merits of the bill, I think it fair to consider these two preliminary questions.

Let us understand first that in the civil-rights bill we are dealing with problems of human trouble, unhappiness, and injustice concerning millions of Americans because of their race or color. We have heard and felt many appeals within the past week to our conscience and to our knowledge in terms of what is considered to be necessary to the integrity, the dignity, and the right to the pursuit of happiness of the white people of the South. We should give—and I certainly give my own pledge that I will give—these appeals the most thoughtful consideration and judgment of which we are capable.

Is it not equally fair to consult the record of the hearings on this bill and the enormous mass of other testimony which has piled up through the years, as to the effect on Negroes in the South and elsewhere of denials of civil rights and their equal right to individual dignity and pursuit of happiness?

Is it not fair also to note the fact that hundreds of millions of people who are yellow and black in the world and are trying to decide on following our leadership of the Free World are watching closely how we deal with our minority groups?

I address myself to those who want a civil-rights bill, and want to exercise the utmost in statesmanship to see that it contains what is effective and appropriate to what I deeply feel is a very historic hour. To them I say that discussion of compromises now can only weaken the resolution of the majority which put the bill on the calendar, while it will not win anyone who does not want a bill at all.

We all should know from our legislative experience—and there is extensive legislative experience in this body—that those who are unalterably opposed will often support and even vote for amendments reducing the scope of a bill, its enforcement powers—indeed, emasculating it—and then, on the final showdown, will nevertheless vote against the bill.

As for me, I stand by part III of the bill, as does the Attorney General, who explained it in some detail in his testimony before a committee of this body. I see nothing to apologize for in seeking to gain for all our citizens the rights given to them under the equal protection clause of the Constitution.

Let us take a moment to analyze these rights. As I see them, they are of two characters. First, they include rights equivalent to and of the same nature as the right to vote. The right to vote does not stand alone. I should like to emphasize that kind of right. For example, there is a right to have a United States officer discharge his duties, whether he is a marshal, a judge, or a United States attorney. There is a right to have a witness or a juror in any Federal court, or a litigant therein, act without fear of intimidation, injury, obstruction, or conspiracy to accomplish intimidation, injury, or obstruction.

That is one set of rights. I say they stand together, equivalent to the right to vote.

The other set of rights is the right to enjoy the equal protection of the laws or equal privileges and immunities under the law. It is under this latter heading that we include the right to attend desegregated public schools and other public facilities, such as municipal playgrounds and golf courses. It is this latter group of civil rights about which we hear so much in terms of the objection from the South to the commingling of the races. But what should be clearly understood is that one who believes in civil rights must stand with the Supreme Court in its finding in the Brown case, relating to desegregation in the public schools, that the effort to impose the use of separate, even if equal, facilities in such cases is unlawful, and that there can be no such thing as equality in such separate facilities, and that the majesty of the Nation is just as much involved in giving equal protection for such rights with all deliberate speed—those are the words of the Supreme Court—as it is in relation to the right to vote.

I think we shall have to keep that very clearly in mind in the days ahead, for real effort will be made to convince us that the latter rights—to enjoy desegregated facilities which are maintained by municipal governments or local governments—are of a lesser standard or of lesser importance.

We have heard much said about the excellent quality of schools and colleges which are Negro schools and colleges. The Supreme Court itself has said that inherent in that is a type of second-class citizenship. The mere fact that they are separate, even though they might be equal—and we know in many cases they are—is alone what the Court has declared under our Constitution to be unlawful.

Secondly, I am opposed to the jury trial amendment as seeking to make a special exception in the case of civil rights to the established procedure in our own courts of justice since their foundation—the very rules of law enforced in practically all the State courts in the Southern States and incorporated in the Federal statutes to the same effect. Let us understand, there is no effort to deny the time-honored trial by jury. We are not talking about that, but what we are talking about is the denial of an inherent power of the courts essential to making effective their decrees, of which the backers of the amendment seek to deprive them.

I think it has been pointed out earlier this morning, with great effect, by my colleague the Senator from Pennsylvania that the jury trial also has a very serious impact on the timeliness with which injunctive action may be taken, especially in the right-to-vote cases. We shall be hearing a good deal about that argument in the future, but I think it is essential to stake out the position now, especially when, in my opinion, unhappily, there is so much talk of compromise in the press.

Right now there is no United States statute giving a jury trial for civil contempts, even when the action is brought by an individual, and the law giving a jury trial in criminal contempt cases expressly excludes cases where the United States brings the action.

Let me interpolate there for an instant, and I hope my colleague the Senator from Montana [Mr. MANSFIELD] will indulge me if I need a minute more. I should like to explain the difference between civil contempt and criminal contempt.

Civil contempts are actions by a court designed to have its decrees enforced. In short, if the court says to a registrar of voters, "You shall register John Jones," and the registrar refuses or fails to do it, the court may punish him even by imprisonment until he does do it. If it takes one day or if it takes a month, the punishment may continue. Of course, an extended punishment is subject to appeals to the higher courts, and even the Supreme Court, and cannot be out of reason under the Constitution. In any case, it is a punishment only until the man complies with the court decree.

On the other hand, a criminal contempt may be a punishment for defiance of the court. The court may say to the registrar, "Whether or not you register John Jones, you have willfully and flagrantly defied the judicial process of the United States. You are sentenced to 1 month in jail."

That is the difference. I make that distinction in connection with the legal situation. Indeed, the authority to punish for contempt, civil or criminal, for violation of a court order, without a jury trial, is strictly enforced in practically every one of the Southern States.

I had occasion yesterday to invite the attention of the very distinguished Senator from Mississippi [Mr. STENNIS] to the rulings in his own State, and the fact that power to punish for contempt was not only vested in a court but to some extent vested in quasi-administrative bodies in his own State.

There is no right—and I think this needs to be emphasized, for we will prove it as the argument goes along—under the United States Constitution to a jury trial in contempt cases. Indeed, a trial

without a jury in contempt cases long preceded the adoption of the Constitution.

In the case of civil contempts—and I have explained what they are—the Supreme Court in the Michaelson case has even raised the serious question as to whether to require a jury trial by statute would be constitutional.

When we talk about a jury of one's peers, I think it is fair to point out that the Supreme Court has overturned cases of the most serious crimes coming from Southern States for the very reason that the juries which acted were chosen by systematically excluding Negroes, and therefore did not give equal protection of the laws.

Among these cases—and may I say again that we will go into detail as the argument proceeds on the merits—are *Patton* v. *Mississippi,* decided in 1947 (332 U. S. 463), *Avery* v. *Georgia,* decided in 1953 (345 U. S. 559), and *Reece* v. *Georgia,* decided as recently as 1955 (350 U. S. 85).

In the Reece case the Court said something which I think bears repetition even at this preliminary stage of the debate:

> The indictment of the defendant by a grand jury from which members of his race have been systematically excluded is a denial of his right to equal protection of the laws.

I do not see how one could say it more clearly.

These cases follow a line of decisions going back to 1880. This is not new law. The exclusion of Negroes from juries was accomplished for the very reason, in many cases, that they were disenfranchised by the application to them of State laws regarding voting, in a discriminatory way.

It is a vicious circle. The Negroes are not entitled to vote and, therefore, they are not entitled to be on the jury and, therefore, the jury does not represent a fair selection.

It seems to me that there has been an unfortunate amount of speculation about compromises at this stage of the progress of the bill. I am not finding fault with the press, for they report what they learn. I am finding fault with the substantive question of the speculation about compromise at this stage of the progress of the bill. Contemplation of compromises now only tends to divide——

The PRESIDENT pro tempore. The time of the Senator from New York has expired. Does the Senator desire to request an extension of time?

Mr. JAVITS. Mr. President, may I ask for 2 additional minutes?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from New York may have 3 additional minutes, again with the understanding that I do not lose my right to the floor.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. JAVITS. I thank the Senator from Montana.

It seems to me that there has been an unfortunate amount of speculation about compromise at this stage of the progress of the bill. Contemplation of compromises now only tends to divide and fragmentize those who favor a civil-rights bill at this session, for there can be no legislation of any kind unless the bill comes before the Senate, and this has not yet been decided.

Talk of compromise before we vote on that issue is premature. Certainly the bill presents issues, some of which I have noted, and certainly there is some difference of opinion even among the proponents as to what the bill should contain, but there should be no difference among all of us who are on the majority side, as shown by the vote to put the bill on the calendar, as to desiring a bill. That is the only issue. I hope we will keep our eye on that ball.

I am not and I shall not be intransigent, but I shall be determined and I shall do my utmost, in the best conscience, to be responsible and deeply impressed with what this means in terms of the South, and how deeply the people there feel about it. I hope very much that in our final decision, as a composite—and I agree with the majority leader that there is much promise of that, from what has already occurred—we shall work together to give all the people of our Nation tranquillity, security, and peace, recognizing in this particularly sensitive field progress needs to be made, and progress at a far more accelerated rate than has been made in the past, unfortunately.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Illinois.

Mr. DOUGLAS. I wish to commend the Senator from New York for his very able statement. I was especially pleased by his declaration that he thought now was not the time to discuss or even to consider compromises. I want to pledge to the Senator from New York that I shall stand with him in this matter. There are many on our side of the aisle who will take the same position. I think if we continue to work in a nonpartisan fashion for a meaningful civil-rights bill—not a mere aspiration, but a meaningful civil-rights bill—we have great hope of success.

Mr. JAVITS. Mr. President, we are all deeply indebted to the Senator from Illinois, who has been one of the real ideological leaders in this fight, who has perceived one thing: We shall never have a bill of any kind unless there is a bipartisanship not only in name but in spirit and conviction—this the Senator has contributed to consideration of the bill. I hope it will be recorded in his favor, and in favor of the effort historically which, in my opinion, should receive that type of consideration. So, too, has the valiant leadership of the minority leader on this issue, Mr. KNOWLAND.

Mr. POTTER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to my colleague, the Senator from Michigan.

Mr. POTTER. I also wish to join my distinguished friend, the Senator from Illinois, in commending the Senator from New York for an able presentation. I think the Senator's remarks have set the record straight with regard to some misapprehensions which have gone out in the press during the course of the debate so far. The Senator from New York is to be commended for doing that particular job.

I think it also is well that the Senator has pointed out this is no time to be predicting or talking about a compromise. The main job of those who feel this proposed legislation is necessary is to get the bill before the Senate, and then the Senate can work its will.

Certainly this is no time to be talking about trying to pull the feathers off the chicken, before the chicken is there.

Mr. JAVITS. I thank my colleague, the Senator from Michigan, who has been a very stanch friend and supporter in this struggle on our side of the aisle.

I thank the Senator from Montana [Mr. MANSFIELD], again, and I yield the floor.

## THE CONSTRUCTION OF CERTAIN WORKS OF IMPROVEMENT IN THE NIAGARA RIVER

The PRESIDING OFFICER (Mr. CLARK in the chair). Morning business is closed, and the Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2406) to authorize the construction of certain works of improvement in the Niagara River for power and other purposes.

## CIVIL RIGHTS

The Senate resumed the consideration of the motion of Mr. KNOWLAND that the Senate proceed to the consideration of the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California [Mr. KNOWLAND] that the Senate proceed to the consideration of House bill 6127, the Civil Rights Act of 1957.

Mr. ERVIN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks the following editorials:

First, an editorial entitled "North-South Split Widens," written by David Lawrence and published in the Hollywood (Calif.) Citizen-News of July 9, 1957.

Second, an editorial entitled "Brownell Bill Exposed," published in the Greensboro (N. C.) Daily News of July 12, 1957.

Third, an editorial entitled "The South Will Resist," published in the Henderson (N. C.) Daily Dispatch.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Hollywood Citizen-News of July 9, 1957]

NORTH-SOUTH SPLIT WIDENS

(By David Lawrence)

WASHINGTON.—What is the real point at issue in the battle over civil rights now being waged in the Senate? It is the possible enactment of a law threatening the use of military force in order to obtain a conformity

of viewpoint on social problems. It is the substitution of a program of compulsion and coercion for faith in the voluntary processes of reason.

It involves not solely a means of assuring voting rights, for many Negroes do vote in the South and several have been elected to city councils there, but a question of reaching into the whole social order in the South with laws authorizing the use of military power to secure obedience to the Supreme Court's decision on school integration. Yet the Court itself admitted in the same decision that it was influenced primarily by sociological doctrines rather than constitutional precedents.

For the school question and the voting problem are interwoven in the civil rights controversy and, curiously enough, the remedy proposed would take away the civil rights of a citizen to a jury trial the principle of which is embedded in the Constitution.

Just because there have been a few instances of racial prejudice in some jury trials in the South, it now is argued by various Members of Congress and executive officials in their speeches that none of the tens of millions of people in the South can be trusted to give an impartial trial by jury.

This is a blanket indictment more severe than ever has been leveled in America against a substantial number of fellow-citizens by the representatives of another segment of the Nation.

For the proposal implies that because the processes of reason are beset with difficulties there must be resort to the theory that the end justifies the means.

This same thing happened once before in perhaps the most shameful chapter in American history when, after the War Between the States had ended and a general amnesty had been proclaimed, military units from the North were sent into the legislative chambers of the Southern States. At the point of a bayonet, ratification of the 14th amendment to the Constitution was compelled in 10 States after each had rejected it. Southern Members of Congress, thereupon were arbitrarily disqualified from voting in either the House or the Senate, notwithstanding the fact that previously the southern Members and their legislatures had in due form approved the 13th amendment abolishing slavery and this action had been accepted as legal ratification. No historian of standing in either the North or the South disputes these facts.

For 99 years there has been a virtual truce in the northern and southern conflict as to the scope of the 14th amendment, and the racial problems it presumably covered. Meanwhile, there has been nevertheless a gradual evolution with tremendous progress toward a better understanding between the races. The doctrine of separate but equal facilities in public schools which was upheld as the supreme law of the land until 1954 was a kind of modus vivendi—a compromise between apparently irreconcilable viewpoints yet one that actually encouraged more and more flexibility through the years.

Now the truce has been broken and, instead of trying to adjust conflicting viewpoints by letting each State or each community within a State decide for itself how it shall move toward the solution of its own social problems—a basic American concept of self-government—the confusing court decisions and the threat of coercive civil-rights legislation are retarding progress. Impatiently the doors are opened to bitter resentments which will grow in intensity because compulsion is the wrong way to deal with social problems in a democracy. Inevitably also there will be revived the whole controversy over the unmoral and illegal way by which the 14th amendment itself was forced into the Constitution in the first place.

"I speak in a spirit of great sadness," said Senator RUSSELL, of Georgia, Democrat, the other day in the Senate. "If Congress is driven to pass this bill in its present form, it will cause unspeakable confusion, bitterness, and bloodshed in a great section of our common country. If it is proposed to move into the South in this fashion, the concentration camps may as well be prepared now because there will not be enough jails to hold the people of the South who will oppose the use of raw Federal power forcibly to commingle white and Negro children in the same schools and places of public entertainment."

Thus after nearly a century of debate, America is again hearing speeches in Congress about the use of military forces to back up social viewpoints. This comes ironically enough at a time when spokesmen for the United States in the world at large are appealing constantly for the renunciation of the use of force as a means of dealing with human friction.

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[From the Greensboro Daily News of July 12, 1957]

BROWNELL BILL EXPOSED

Senator RICHARD RUSSELL'S massive attack on the Brownell civil rights bill has been dismissed in some circles as the usual southern filibuster, but it is more on the order of a blockbuster around the White House.

It has dramatized, with alarming overtones, President Eisenhower's shocking lack of information about one of the key measures of his Congressional program and it has sent him scurrying for cover under the usual flurry of confusing semantics. Mr. Eisenhower claimed in his press conference that there are certain phases of the civil-rights bill he doesn't understand, although he thought it was designed to "prevent anybody illegally from interfering with any individual's right to vote, if that individual were qualified under the proper laws of his State."

Now the civil-rights bill is assuredly concerned with guarding the Negro's right of franchise in the South—and rightly so. But Senator RUSSELL, a skilled parliamentarian and lawyer, has made it abundantly clear that the bill does not stop there: It also confers on the Attorney General vast powers in the field of civil law which could be used "to bring to bear the whole might of the Federal Government, including the Armed Forces if necessary, to force a commingling of white and Negro children in the State-supported public schools" and in all public places in the Southern States.

Section III of the civil-rights bill would allow Attorney General Brownell to bring civil actions against election registrars, school officials, private citizens or anybody who might object to or protest against integration. Mr. Brownell would have this power not only to correct violations already done but to bring down the weight of Federal edict on the heads of those thought to be planning to defy Federal law. It would allow proceedings to be brought not only at the requests of citizens damaged but even if they had not made such requests. Through this vast extension of the Federal Government's injunctive power, it would virtually make the power of contempt the power to enforce the Supreme Court's integration orders. And, unless the Senate amends the civil-rights law, it would permit these things to be done without jury trials. (The Clinton, Tenn., case, now in progress at Knoxville, is an example of the kind of contempt case which might be brought by the Attorney General, but in that case Judge Taylor has granted a request for jury trial.)

Walter Lippmann, writing across the way today, confirms in a northern liberal viewpoint, this interpretation of the civil-rights bill, and warns of its dangers:

"There is no doubt * * * that the objectives of the bill are much wider than to secure and protect the right to vote. This raises great questions of principle and of national policy. For while the right of qualified adults to vote and the right to have their children attend unsegregated schools are both civil rights, there are important differences between the two kinds of rights. * * *

"In principle, it is the duty of the Federal Government to use its legal powers to secure and protect the right to vote. But to promote integration it is its duty to use persuasion in order to win consent. The two objectives—voting and integration—ought not to be lumped together, and the wise thing to do would be to accept an amendment to the bill which separates them."

In brief, Mr. Lippmann calls for an amendment which would limit the impact of the Brownell legislation to the area of voting rights. In this the Daily News heartily concurs. Already Senator O'MAHONEY has suggested a jury trial amendment to protect individual rights, and other limiting amendments will undoubtedly be offered.

Out of the extremely important senatorial debate, now under way, should come legislation which a majority of the South may oppose as a bitter pill but which, under changing conditions, it may be able to live with. Mr. Brownell's "force bill" has been exposed for what it is—despite President Eisenhower's lack of knowledge of it—and Congress will disregard this at its peril.

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[From the Henderson (N. C.) Daily Dispatch]

THE SOUTH WILL RESIST

One of the greatest debates of the present generation is getting under way in the United States Senate over the issue of civil rights. It is, of course, aimed at the South, and back of that is the bid for Negro votes in great population centers of the North, where the Negro vote is just about enough to tip the scales in a close election. Except for the South itself, both political parties are guilty of this attempted perversion of constitutional rights, for both are angling for the comparatively small marginal vote in areas involved.

Senator ERVIN, of North Carolina, one of the leaders of the Senate opposition, says the bill's advocates are moving under the guise that it deals only with the right to vote, and hence are misleading the country. Actually, he says, the measure extends far beyond the right to vote, and "is a political bill, harsh, sectional in nature, and designed as another in a series of attempts to punish the South for political advantage in certain northern cities and areas," and "will destroy more rights than it will ever protect."

The Senator further adds that the proposal "is based on the thesis that the people of the Southern States are incapable of local self-government in the area of civil rights."

This measure is similar in design and purpose to the antilynching bill which for many years was brought up in every session of Congress, and which southerners were successful in beating down. During debate on that issue, the late Senator Borah, of Idaho, one of the greatest statesmen ever to sit in the Senate, termed the antilynching bill "an attempt upon the part of States practically free from the race problem to sit in harsh judgment upon their sister States where the problem is always and sometimes acute." He continued: "These States are not to be pilloried and condemned without a full presentation of the nature of the task which fate and circumstances imposed upon them, and not without a complete record as to the weight and difficulty of the task, what has been done, and with what good faith it has been met. I shall contend that the southern people have met the race problem and dealt with it with greater patience, greater tolerance, greater intelligence, and greater success than any people in recorded history, dealing with a problem of similar nature."

Borah also shouted: "I will cast no vote in this Chamber which reflects upon her (the South's) fidelity to our institutions or upon her ability and purpose to maintain the principles upon which they rest."

In a speech in the Senate a few days ago, Senator RUSSELL of Georgia said there were not enough jails in the South to hold the people who would resent and resist the civil-rights bill if it becomes law, and that the Government had as well prepare concentration camps to hold them.

By and large, the Negro has been treated as well in the South as anywhere in the country, if not better. They speak of segregation and look in the other direction when attention is called to New York's Harlem, Chicago's Black Belt, and other ghettos in the North and East. The South is castigated by these holier-than-thou groups for such incidents as have occurred in Alabama and Tennessee, and little or no attention is paid, even in the press, to violence and threats elsewhere in the country involving the race issue.

This testifies to the motives behind civil-rights bill, and should be convincing enough evidence that the measure now in the Senate is political in character and purposes and aimed at the South.

Politicians of both parties are willing to rate this section as expendable if by foisting this vicious measure upon the country they can gain the advantage they hope for. They would use the authority thus granted to invade the South with Federal forces, if need be, and to persecute this people for advantages sought elsewhere. If this is democracy, if it is statesmanship, if it is equality, then a new meaning must be found for those virtues in government.

The South is a minority in Congress. More than once, indeed many times, in the last century, it has been made the whipping child of politicians who have been willing to prostitute sound principles of government for an advantage to be gained in other directions.

The South should resist and will resist this illegal, unmoral and unjust imposition by whatever means may be at hand. If its place in the sun is to be denied by a majority from other sections of the country, it has left only the alternative to defend and protect itself and its integrity in the best way possible.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 8582. An act to authorize Ambassador Henry Cabot Lodge, the Honorable WILLIAM A. BARRETT, and the Honorable JAMES G. FULTON, Members of the House of Representatives, to accept and wear the award of the order "Al Merito della Repubblica Italiana" tendered by the Government of the Republic of Italy; and

H. R. 8678. An act to authorize the Honorable GEORGE H. FALLON, Member of Congress, to accept and wear the award of the Grand Cross, Order of Highway Merit, conferred upon him by the Government of Cuba.

## HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Foreign Relations:

H. R. 8582. An act to authorize Ambassador Henry Cabot Lodge, the Honorable WILLIAM A. BARRETT, and the Honorable JAMES G. FULTON, Members of the House of Representatives, to accept and wear the award of the order "Al Merito della Repubblica Italiana" tendered by the Government of the Republic of Italy; and

H. R. 8678. An act to authorize the Honorable GEORGE H. FALLON, Member of Congress, to accept and wear the award of the Grand Cross, Order of Highway Merit, conferred upon him by the Government of Cuba.

## THE NEXT STAGE IN FOREIGN POLICY

Mr. MANSFIELD. Mr. President, I should like to request that I not be interrupted during the course of this speech. That is contrary to my usual procedure. However, because of the circumstances limiting the time for speeches between now and next Tuesday at 4 o'clock, I think the request is reasonable. At the conclusion of my remarks I shall endeavor to answer any questions which may be raised.

Mr. President, with the 1st session of the 85th Congress moving into the closing weeks, I ask the indulgence of the Senate for another general review of the Nation's foreign policy. As the Senate knows, I have set forth from time to time in this body views on the international situation. I have made these periodic statements because I believe it is mutually helpful when members of the Committee on Foreign Relations share their observations with other Members of the Senate. I know that my own understanding has been enriched by the discussions which have sometimes followed these statements. It may be that the executive branch has profited from them in the same manner.

Most important, Mr. President, I have made these statements because of the vast significance that foreign policy has assumed in the lives of the people of the United States. The citizens of this country have a right to expect whatever information we can provide in this matter, whatever light we may be able to shed on the international situation as it confronts the Nation. They have the right to expect a deep and continuing interest on the part of the Senate in questions of foreign policy.

### THE STATE OF FOREIGN POLICY AT THE BEGINNING OF THE 85TH CONGRESS

At the outset of this session, on January 30, I addressed this body at length on the matter to which I return today. It seemed to me at that time—after the near disaster at Suez—that the President was in great need of support on foreign policy from outside the confines of the White House and the executive agencies.

The Nation's foreign policy was fast degenerating into a hodgepodge of sterile slogans and fumbling fears. There were many passionate words, religious words, frightened and frightening words, and peaceful words. Yet there was little action to reflect the more worthy of these words. The nobler policy became in the language of its expression, the more meaningless it was becoming in the pattern of its operation. Foreign policy lacked effective and consistent leadership and it lacked strength of conviction on the part of those charged with day-to-day operations. There was a tendency on the part of the executive branch to hoard power and to reach out for ever-increasing power in foreign relations. At the same time, that branch seemed ever more desirous of evading the responsibilities of its already vast powers in this field.

The effects of this degeneration in foreign policy were readily apparent last January. Abroad, it contributed in the Middle East to what the Secretary of State called the most serious threat to peace in a decade. Yet just a short time before, the Nation had been assured that the situation in that area was improving. The degeneration endangered our relations with the democratic nations of Western Europe. Yet, the future of freedom and peace depended heavily on cooperation with those nations. In Eastern Europe the degeneration immobilized policy at a critical juncture of developments. As for the Far East, the executive branch kept the curtain of ignorance high in this country with an arbitrary arrogance toward the press unprecedented in recent history. Yet it did so at a time when events in that region were moving in a manner which was driving the United States increasingly into an isolated position. Only Africa appeared not to be adversely affected. In the light of experience elsewhere, however, there was reason to wonder how long this fortunate circumstance would persist.

At home, the degeneration of policy imperiled mutual restraint between the political parties and between the executive and legislative branches. It gave rise to a serious loss of confidence in the course of our foreign policy among the people of the United States. Yet the safety of the Nation depended on close unity between the parties and the branches of the Government and an intelligent concern in our relationships with the rest of the world on the part of the public.

The need, at the beginning of this session, therefore, was clearly for a new contribution, a constructive contribution to the course of our relations with other nations. It seemed to me that such a contribution was required of both parties. It was required of the Congress, and particularly of the Senate.

In my remarks on January 30, therefore, I urged Members of this body on both sides of the aisle to make that contribution, I urged that the President be provided freely with responsible cooperation in foreign relations. I made clear that so far as the Democratic majority was concerned, that would be our approach. I expressed the hope that the same cooperation would be forthcoming from the Republican minority and the Republican administration. What other course was possible? How else were the vital interests of the Nation, beyond party interests, to be safeguarded in this nuclear age?

### THE CONTRIBUTION OF THE SENATE TO FOREIGN POLICY

During the months of the current session, both parties in the Senate have made the contribution that was so desperately needed. This body has introduced an initiative into foreign policy

where little existed at the beginning of the year. It has provided new ideas, new direction where before there was only a timorous clinging to outmoded policies of the past and, sometimes, in the "brink of war" episodes, a dangerous distortion of those policies. It has produced some order out of the administrative chaos into which the conduct of foreign policy had been reduced by the multiple agencies and voices of the executive branch. While the Senate refrained from interference with the essential authority of the President in foreign relations, it has illuminated more clearly the constitutional limitations and responsibilities which must go with that authority.

We can begin to see the results of this contribution. We can see these results in the Middle East where, at least for the moment, a measure of calm prevails. The work of the Senate was a major factor in inducing that development. This body gave the President the tools he asked for to deal with the situation in that region. It gave him the tools, however, only after having tried to make certain that they would not be misused by the executive branch.

What the Senate did was to remove the press agentry from the administration's approach to the grave problem of the Middle East. Had the resolution the President proposed been adopted by the Senate under the whip of urgency and in the fanfare of crisis with which it was presented, had it been adopted without the changes which the Senate made after full consideration of its implications, there is no telling what the consequences might have been.

In its original form, the Middle East resolution was an invitation to irresponsible action by the executive branch. It was an arrangement whereby authority to commit this country to war was delegated to that branch while responsibility for war, if it came, would have been consigned to the Congress. It was a blank check for military and economic aid. It invited reckless use of this delicate and costly instrument of policy. In its original form the resolution gave lipservice support to the United Nations where that body was least able to act effectively. Yet that organization was overlooked where it could perform and was performing, through the emergency force in the Middle East, a most useful function in the maintenance of peace.

The changes made by the Senate removed these weaknesses from the so-called Eisenhower doctrine. By linking responsibility with authority, the action of the Senate helped to make certain that the military power of the United States would be used with great caution by the executive branch. It helped to insure that in an anxiety to avoid war, that branch would not stumble into war. By compelling a prompt accounting on expenditures for economic and military aid, the Senate minimized the likelihood of a profligate or careless use of that aid. By emphasizing support for the U. N. emergency force in the Middle East, the changes made by the Senate did more than give a ritualistic nod to the United Nations. They made clear that when that organization could perform a genuine service for peace, the people of this country stood firmly behind its efforts.

In the field of foreign aid, the work of the Senate and its committees broke through the curtain of administrative complexity that had come to conceal the decay in this most important instrument of foreign policy. The Senate laid the groundwork for a thoroughgoing revision of a multi-billion-dollar program which had been rapidly losing friends abroad and support at home. By an expenditure of less than $300,000 in an extensive study of foreign aid, the Senate has already stimulated the saving of hundreds of millions of dollars of public funds. I am confident, moreover, that additional funds will be saved in the future. What is more important, these savings will not impair but are likely to enhance the usefulness of foreign aid in foreign policy.

In the case of the information program, the Senate's contribution was to join with the House in curbing a vast expansion that had been planned by the executive branch. By cutting the proposed budget of the Information Agency, the Senate was applying what is, apparently, the only remedy capable of excising the delusion of grandeur which periodically seizes this operation.

Time and again, we have seen the adverse repercussions of overseas informational activities on such a scale as to suggest a cultural offensive on the part of this Nation. Time and again, the point has been made that there is a place for an information program in the conduct of foreign policy, but that it cannot substitute for policy, no matter how great the output of words, no matter how astute the gimmicks. Time and again, Members of Congress have stressed that the finest ideals of this Nation ought not to be sold like some mass-produced product, in the political market places of the world.

Yes; time and again the obvious has been ignored. Time and again the Agency bulges with the grandiose belief that it has a short-cut, low-cost, sure-fire formula which will win us friends, stop communism, and bring about a secure peace, if only the appropriations are large enough. I must say that the White House did more to encourage that delusion this year than ever before.

In these circumstances, Mr. President, the Congress was compelled to curb the activity by the only recourse open at this time—that of drastic budget cutting. Congress had to take that step, not merely as a matter of economy but in order to preserve the utility of the program. If an information service has any use at all—and I believe that it has a highly important one—it is as an instrument for communicating to others an honest understanding of the policies of the United States and an accurate and reasonable image of its people. The program will not serve this purpose effectively unless it is operated with a rational restraint and with a decent respect for the cultural privacy of other nations. It will not serve this purpose unless the Nation's foreign policies are sound to begin with and the program is closely integrated with these policies in their inception and operation.

Finally, Mr. President, I should like to mention in connection with the work of the current session the ratification of the statute of the International Atomic Energy Agency. This treaty represents the beginning of a worldwide effort to unfold the peaceful possibilities and to curb the dangers inherent in this great new source of energy. By consenting to ratification of the statute, the Senate has risen to a great challenge. I trust that the executive branch shall act under this treaty with a prudence which will justify the faith that has been reposed in the President. May I say that such delays as were encountered in the ratification of the treaty, while the Senate devised constitutional safeguards, might have been avoided had the advice of this body been sought before the proposal was made to the world. Again, however, the restless eagerness of the public-relations experts apparently took precedence over the preparation of sound policy.

The matters which I have been discussing to this point, Mr. President, are the most tangible results, the most significant legislative results of this session's work in foreign relations. Members of the Senate have made other contributions, less tangible perhaps but which, in the long run, may have the most far reaching and beneficial results.

How, for example, can we estimate the contribution of the distinguished majority leader [Mr. JOHNSON of Texas] and the distinguished minority leader [Mr. KNOWLAND] or the chairman of the Committee on Foreign Relations [Mr. GREEN] and the ranking minority members [Mr. WILEY, and Mr. SMITH of New Jersey] in keeping politics out of foreign affairs in the Senate, in keeping the preponderant national interest constantly in perspective?

How can we estimate the contribution of the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Minnesota [Mr. HUMPHREY] in compelling a more rational approach to the situation in the Middle East? What may result in the years ahead from the brilliant dissents on foreign aid policy, the dissents of the Senator from Georgia [Mr. RUSSELL], the Senator from Oregon [Mr. MORSE], and the Senator from Louisiana [Mr. LONG]? What effect did the logic of the Senator from Massachusetts [Mr. KENNEDY] have in stimulating the beginnings of a policy on Poland and Eastern Europe? What of the contribution of the Senator from Iowa [Mr. HICKENLOOPER] and the minority leader [Mr. KNOWLAND] in safeguarding the powers of the Senate in connection with the atomic energy statute? What of the initiative of the majority leader [Mr. JOHNSON of Texas] with respect to the overall problems of United States relations with Soviet Russia?

And how can we estimate the influence of the many Members of the Senate of the Joint Committee on Atomic Energy, who raised the question of the implications of testing nuclear weapons? This generation and the generations to come may owe a great debt to the Senator from New Mexico [Mr. ANDERSON], the Senator from Rhode Island [Mr.

PASTORE], and the Senator from Tennessee [Mr. GORE] and others on that committee. These Senators brought this grave question into the light of public discussion while the executive branch dawdled with it in the darkness of the secrecy-shrouded Atomic Energy Commission. The contribution of these Members to our understanding of the problems of nuclear weapons and of others on other international problems can be summed up in a sentence. They have had the courage to look at the realities of the international situation and to speak out on these realities. In so doing, they have provided new ideas which have found or are likely to find their way into the Nation's foreign policy. In so doing, they have provided the initiative which was desperately needed by the executive branch to stop the drift toward national disaster.

We are ending the session, Mr. President, with a more effective and a more economical foreign policy. We are ending it with policies which provide a better outlook for peace. The Senate has contributed a great deal to this department. In recent months, there has been every evidence that the President and the Secretary of State have come more and more to see its necessity and advantage.

THE PRESENT STATE OF FOREIGN RELATIONS

It would be easy to overstress the achievements. Let me repeat, therefore, that what has been obtained during this session is only a better outlook for peace, not peace itself. We have checked the descent into international chaos but we are only at the beginning of the ascent toward international stability.

We have still to reexamine the many aspects of the present mechanics of policy itself in the penetrating light of senatorial and public review. The improvements of the past few months will quickly prove illusory unless we act to maintain and extend them.

At home, we are still confronted with the need to develop enduring practices not only of bipartisanship but of what may more properly be termed tripartisanship. Apart from the need for the responsible restraints of bipartisanship between the two parties, there is a need for continuing arrangements which provide a third factor—responsible cooperation between the President and the Congress.

We have still to improve the operations of the foreign-aid and information programs and to coordinate these and other undertakings abroad more closely with foreign policy.

Abroad, we have obtained only a momentary breathing spell in the international situation, and this, I emphasize, is not to be equated with peace. There has been only a limited recovery in cooperation with the western democracies after the breakdown at Suez. The division of Germany still haunts the future of Europe. With respect to Western Europe, we have yet to formulate an understanding of how best to relate our national interests to the European unity that appears to be emerging in the plans of Euratom and the European common market. We have only begun to grope with the changes in the situation in Eastern Europe. For the Far East, policy remains imprisoned in the past while events move that region rapidly into a new era. In the Middle East, there is still only a tenuous truce. We have still to go beyond words and establish in practice sound relations with the new nations of Asia and Africa. We have still to advance the concept of hemispheric cooperation to a higher ground of common interest with the nations of Latin America.

Finally, Mr. President, we need still to explore the whole scope of relations with the Soviet Union, with a view to lessening the threat and dangers of nuclear war. A temporary standstill agreement on nuclear testing, even if it were obtained, might reduce a health hazard to the human race. It would not, however, end the possibility of the sudden death of civilization.

A NEW STAGE IN FOREIGN POLICY

Where do we turn next, Mr. President? As I have noted, we now have a kind of holding action for peace. That is an important achievement but we cannot ignore the fact that a holding action is not forever. The situation in the world does not stand still. International events flow continuously and we shall either advance with them or be submerged in their backwash. We shall either move toward greater instability or toward greater security for all nations.

That is why, Mr. President, I believe we must ask ourselves whether the time is not becoming ripe to move forward from a holding action toward the consolidation of peace. I am aware that it is beyond the power of this country alone to determine whether or not there shall be peace. But it is also beyond the power of the Soviet Union alone or any nation alone. There are some matters which do not rest in the hands of men or nations. What does lie within the realm of all nations, however, is to establish the kind of policies which will permit peace, if, in fact, the opportunity to make it is given to us.

It has been said many times, and correctly, that there will be no peace unless there is a change in the attitudes of the Soviet Union. It has not been said, yet it must be said, that peace also depends on the attitudes which underlie our own policy.

The attitudes which shape policy, Mr. President, are human attitudes. Because they are, policy is a mixture of the able and the inept, of the generous and the selfish, of the courageous and of the fearful. But for too long, Mr. President, I believe policy as designed by the executive branch has reflected too heavily the fearful. To be sure, we have had the courageous words, the able words, and the generous words. Yet the executive branch, under both Democratic and Republican administrations, has turned too often to fear to find justification for the actions it pursues or fails to pursue.

There is fear in this country, but there is also a fullness of spirit that permits us to deal honestly and confidently with the realities of the world, if we will. A policy which emphasizes the fear and ignores this spirit does not do justice to the people of the United States. It serves neither our traditions nor our interest.

I shall speak frankly on this point because time is running out on peace. We shall either face the issue squarely now, or history—if, in fact, there is anyone left to write history—may well be at a loss to explain to succeeding generations how the leadership of the present generation sacrificed the greatness of this Nation on an altar of irresponsible fear.

I ask the Senate, Mr. President, to think back through recent years to the major issues of foreign policy which have come before this body—think back to the treaties of peace, to mutual security, to NATO, to the information program, to the innumerable aid programs which we have considered, to the most recent measures—the Middle East resolution and even to the Atomic Energy Agency statute. Most of these measures were generous in original design. Many of them were acts of great courage and foresight. Most of them, in short, had high constructive merit, in terms of our national interests and ideals, in terms of world peace, in terms of universal freedom.

Yet, were they allowed to stand primarily on this merit? Were they allowed to reflect in full measure the finest attitudes of the people of the United States? Or was not the grim spectre soon raised in justification of all of them? The grim spectre of the advantage which would fall to communism if we did not act in some particular fashion or other? And has it not been raised again and again? Indeed has not that motivation, that motivation of fear, almost invariably been turned into the principal motivation for any major action of policy? The fact is that it has been made to swamp virtually every other consideration.

We may well ask ourselves whether or not that is the principal reason why the policies of the Nation are looked upon so often as essentially negative; why it has seemed for years that in the arena of world affairs the Russians act and this country merely reacts. We may well ask ourselves whether or not that is the principal reason why, after the expenditure of $60 billion on foreign aid and hundreds of billions on defense, security still eludes us; why a sense of living on the edge of doom has not ceased to haunt the Nation.

We may even ask ourselves whether a policy derived so heavily from this attitude of fear is adjusted to the dimensions of the actual Soviet threat. If it is not, if policy has been geared instead to dimensions swollen by a stimulated fear, Mr. President, then the people of the United States have paid and shall continue to pay an unnecessary tribute of billions of dollars to this fear. We may yet pay for it with the lives of millions of citizens.

The Senate does not need to be told that there is a basis for a valid fear of the aggressive doctrines of the Soviet Union. We have seen that aggressiveness expressed many times, beginning with the vested interest which commu-

nism displayed in prolonging the suffering of Western Europe after World War II. We have seen it most recently in the dangerous game of Soviet arms diplomacy in the Middle East and in the ruthlessness of the totalitarian repression in Hungary.

Certainly there is a basis for a deep concern with Soviet totalitarianism on the part of this country, on the part of free countries everywhere. There is also, however, grave danger in a policy which would inflate this concern beyond actual proportions, whether the inflation derives from an excessive eagerness to obtain appropriations and increased executive power or from simple miscalculation. The inflation is an invitation to a blind retreat into an irresponsible isolationism or to a blind advance into an equally irresponsible internationalism.

A policy based on a fear-laden inflation of the Soviet threat can only lead as it has been leading to a fruitless search for absolute security, whether it be in a nonexistent fortress America or nonexistent fortress free world, and consequent actions of disillusionment, when it cannot be found. While this futile search is being pursued, we may well ignore the possibilities of making this Nation relatively more secure than is now the case in what is and will always be a dangerous world.

The international problems of the United States and of freedom, Mr. President, did not begin with the birth of Communist tyranny. They will not end with its inevitable passing. Yet the justifications for executive actions that are presented to the Congress sometimes suggest that this distorted concept, oblivious to several thousand years of human experience, does in fact dominate foreign policy.

If the next stage in foreign relations is to be a constructive one, if the leadership of this country is to be prepared to begin the long and painful ascent to international stability, then fear as a predominant base of foreign policy must yield to faith. I do not speak of faith in the rulers of the Russians. I do not speak even of an unquestioning faith in the governments of Allied nations. The nature of Russian leadership leaves little margin for faith. As for allies, they are brought together as their interests and ideals converge; they may separate, if their interests and ideals should diverge.

I speak, rather, of faith in ourselves, in the people of this country. I speak of faith in the capacities of human freedom to meet the challenge of peace which, in this 20th century, is the challenge of life itself.

It is high time, Mr. President, to express this faith in the policies of the Nation. It is time to put aside the excess of fear that can only undermine the vitality of this country's freedom. It is time to recognize that if the Soviet Union is strong in a material sense, this Nation is and can remain stronger, provided it is united and properly led. It is time to recognize that if there are dangers to freedom in the ideology of communism, there are even greater dangers to communism in the doctrines of liberty.

This shift in the attitude underlying policy, Mr. President, seems to me to be an essential prerequisite to progress toward a more durable peace, regardless of what the Russians may or may not do. If the leadership of this country reflects what I believe the people of this country feel we shall see this shift in the near future. We shall move from a holding action to a new stage of policy—to a policy of positive action for peace.

And if we are to have that kind of policy there are measures which can and must be taken both with respect to the machinery of policy and with respect to present policies themselves.

IMPROVEMENTS IN THE MACHINERY OF POLICY

At home, the gains made during the past few months in cooperation between Democrats and Republicans, and between the executive and legislative branches, must be consolidated. The continuance of this tripartisanship is essential if the maximum possible weight of this country is to be brought to bear on the international problems that confront us. Tripartisanship cannot be a casual arrangement, to be indulged in whenever the executive branch feels so disposed or when one party fears the political repercussions of a particular course of policy. If cooperation is casual, if it is given political overtones, we shall have more "slippage," if I may borrow a term from the Secretary of State, such as occurred in the sudden request a few weeks ago to send Senators to the London disarmament meetings and then the sudden postponement.

It seems to me there is a way in which close and continuing cooperation between the branches and between the parties can be maintained in foreign policy. It depends, first of all, on the will on all sides to cooperate, the will to avoid seeking partisan advantage or either executive or legislative domination in matters which affect the vital interests of the Nation. If the will is present, then I believe the following actions will provide adequate machinery for continuing tripartisanship:

First. Let the President appoint able men of both parties to high policymaking positions in the agencies of the executive branch concerned with foreign relations. If the sentiments of the people of the United States, as reflected in the party ratios in Congress, are any indication, surely these appointments will include a few more qualified Democrats than is now the case.

Second. Let the President and the Secretary of State, as a matter of regular practice, advise with the majority and minority leaders of both parties in the Senate and the chairman and ranking minority member of the Committee on Foreign Relations, in advance of all major decisions on foreign policy. When there arise matters which are likely to involve action by the House of Representatives, then the corresponding Members of that body should be included.

In the end, the responsibility for decision in foreign policy must, of course, rest with the President. He cannot be bound by the advice he receives from the legislative members, nor can he expect to bind the House or Senate until each has consented to any particular measure in a legislative act. Nevertheless, regular consultation of the kind I am suggesting can do much to avoid partisanship and to promote mutual understanding between the branches in matters of foreign policy. It should be of advantage to the President. It should be of advantage to the Congress. Most of all, it should be of value to the people of the United States, who gain from an effective and united policy, and who pay dearly for the converse. I emphasize that the consultation must be a regular and continuing practice, not a sometime gesture. It must take place, moreover, before, not after, the decisions are finally made by the President.

As for foreign aid, the improvements made possible my this year's Congressional inquiries and legislation must be carried out in spirit and in action by the executive branch. Unless this is done, the decay in this program will not finally be eliminated. Unless this is done, the dissents expressed in opposition to foreign aid, on the floor of the Senate this year, may well become the majority opinion in the years ahead.

In the absence of significant changes in the international situation, there is every reason to expect a steady reduction in grants of foreign economic aid and an increase in the proportion of this program that is carried on a loan basis. There is every reason to expect that military aid will be adjusted more effectively to the actual needs of national defense, and less to the predilections of the civilian and military bureaucracy of the executive branch and counterparts in other countries.

The President and the Congress must also see to it that not only the foreign aid program, but also the information program, the Central Intelligence Agency, and all other overseas activities, are brought into close coordination with foreign policy. There has been improvement in this connection, but much remains to be done. I believe we have seen ample evidence of how much remains to be done, in the indecision and the starts and stops that have characterized the conduct of negotiations at London, under Mr. Stassen.

The Department of State, under the President, is the logical and traditional place to center coordination of foreign policy. Does the Department shirk its responsibility, or is it denied this responsibility? In the organization of that Department, is there something wrong, which prevents it from exercising the responsibility? If that is the case, it is incumbent on the President and the Congress to correct whatever is wrong. It does not help to scatter matters of foreign policy throughout the executive branch, to the point of irresponsibility. That is what we have had in recent years, and that is why policy has so frequently bordered on the chaotic.

As it is now, actions of the gravest consequence to this country can be taken in innumerable places within the vast jungle of agencies of the executive branch, each with its extensive overseas

operations. Yet, without a Congressional investigation, it is virtually impossible to fix responsibility for such actions. Even with an investigation, there is no certainty that the country will be able to obtain a satisfactory explanation, and to prevent repetitions.

Finally, Mr. President, I believe a concerted effort must be made to reduce the size of official establishments overseas—both military and civilian. Not only are these establishments costly in a monetary sense, but in many countries they can, and are, building an undercurrent of resentment toward this country. How many more demonstrations like those of the past months in Formosa and Lebanon and, most recently, in the Philippines, are waiting to be touched off by some explosive incident elsewhere?

The announced reduction of military forces in Japan is a step in the right direction, and others should follow promptly. Has there been any reduction in the installation of thousands of official Americans on Formosa? Or now that the heat of the riots there has cooled, will the executive branch operate on the assumption that the Congress and the people of the United States have also cooled in their determination to deal with this question?

If the executive branch chooses the path of inertia in this matter of the size of overseas installations, I trust that the Senate will not. I hope the Armed Services Committee, under its able chairman, the distinguished senior Senator from Georgia [Mr. RUSSELL], will give particular attention to this matter as it effects the military, and that the Committee on Foreign Relations will study the problem as it involves civilian personnel overseas. Circumstances require us to maintain abroad substantial numbers of military and civilian personnel, but let us make certain that these numbers are realistically adjusted to actual need.

WESTERN EUROPE

I should like to turn now from the mechanics of policy to the substance of policy, to a consideration of measures which will support a positive policy for peace in various critical areas of the world. No single area is more important in this connection than Western Europe. No single factor is more essential than the preservation of the unity of Western Europe and the continuance of the close ties of the United States with the democracies of that region.

There is nothing new in these observations. They have been reiterated by successive Presidents and by successive Secretaries of State. They have been reaffirmed in repeated actions of the Congress. What is less evident, what requires repeated statement, is that the military arrangements of Western European Union and the North Atlantic Treaty Organization are no longer sufficient to maintain these ties. Whether it be a lessening of the fear of Soviet attack, whether it be the example set by this country, whether it be a growing sense of futility, in the light of advances in weapons technology, or whether it be simple economic necessity, the mood and the actuality of disarmament now prevail in Western Europe. This mood and this actuality have made academic a good deal of the discussion of disarmament. We already have the beginnings of one-sided disarmament, in advance of any agreement on the matter. There is no point in pretending this is not the case. There is much to be said for facing this reality. There is much to be said for seeking to reinforce by other means the essential intimacy of western civilization. In the long run, this intimacy may prove of even greater importance than a headcount of the men under arms in NATO.

Fortunately, the Europeans are moving to strengthen their own unity, both in the field of nuclear energy and in the field of intra-European trade. The fate of Euratom and the European common market, now under consideration in the Parliaments of the European democracies, will have a great bearing on the progress and the peace of Western Europe and the world. While this country is not directly involved in these undertakings, our official attitudes with respect to them will have a highly significant bearing on their outcome.

If the western Europeans do, in fact, pool their resources, in a common effort to develop and exploit nuclear energy, that will have profound repercussions for the United States. I need hardly remind the Senate that the initial development of the atomic bomb in this country during World War II drew heavily on the genius of scientists born in Europe. Without this contribution, the race for this decisive weapon might have ended in another fashion. With the echoes of Soviet and British tests of hydrogen bombs still reverberating, and with developments in nuclear energy moving forward rapidly in France, Sweden, and elsewhere, I need hardly remind the Senate that no country has a monopoly on the scientific talent in this field.

A pooled effort by Western European scientists and technicians under Euratom may well produce enormous new developments in nuclear energy. That could be a godsend to the power-hungry countries of Europe and the world. It could make a great contribution to all mankind. It could be of great advantage to this country, provided we have established a sound pattern of cooperation with Euratom, provided we have not excluded ourselves from this great potential source of progress by inertia and by the limited vision of our leadership in these matters.

If the inertia is present and vision is absent, the vaults of the Atomic Energy Commission are likely to bulge with secrets that are no longer secret, with facts that are guarded only from the people of the United States. Meanwhile, the scientific leadership of this country in nuclear energy may well vanish in the rapid flow of progress elsewhere. Little may remain to us except the smug assurances and the mysterious mumbo-jumbo that have masqueraded as leadership in this vital field.

As in the case of the development of unity in the nuclear field, the emergence of a common market in Western Europe will also have great significance for the economy of the United States. As the Senate knows, this country's largest volume of imports and exports are exchanged with the Western European countries. Total trade is already approaching $10 billion a year. This trade is a not insignificant factor in the stability of our own economy, and it is a matter of vital necessity to many of the less powerful economies of Western Europe.

The United States stands to gain immeasurably in trade from the higher productivity and the higher levels of consumption that are likely to result from the development of a common market in Western Europe. On the other hand, our trade can be seriously damaged by that development unless we establish mutually advantageous relationships with the emerging common market.

It seems to me, Mr. President, that the time has come for the Congress, as well as the executive branch, to pay very close attention to these major trends toward integration in Western Europe. They are, I believe, eminently desirable developments from the point of view of this country. They have not only economic validity for Western Europe, but great political implications as well. Like the European coal and steel community before them, they are safeguards against the narrow nationalistic rivalries in that region, which have twice in our lifetime set fire to the world.

The interests of this country, it seems to me, require that we stay abreast of these developments pointing toward unity in Western Europe, that we encourage them, that we seek mutually advantageous relationships with the institutions that are emerging through them. To that end, Mr. President, I suggest that the time may be ripe for a formal conference with the member nations of Euratom and the European common market. In fact, the time may be ripe for conferences in these two fields among all the NATO members.

EASTERN EUROPE

In Eastern Europe, Mr. President, we have opened a contact during the past few months which may prove of great long-range significance in the creation of conditions of stability throughout the entire Continent. I refer to the loan agreement with Poland, to what may prove to be the beginnings of an affirmative policy with regard to all of Eastern Europe.

In substance, as the Senate knows, this agreement provides a line of credit of $95 million, to be used by the Poles largely for the purchase of wheat and cotton and coal-mining machinery in this country. To make this loan was not an easy decision for the President or the Secretary of State. The loan is going to a country which has a Government headed by Communists. It is going to a country in which Soviet military forces are present in large numbers. It is going to a country whose foreign policies are alined with those of the Soviet Union.

In these circumstances there are obvious risks in the course that has been set. The commodities to be exported under the loan could be diverted to Soviet

consumption despite safeguards against such a diversion, and thus serve no useful end of the Polish people. They may help to make the Polish Communist regime more tolerable to the Poles. The loan may be defaulted, and, in that case, we shall have given away, in effect, nearly a hundred million dollars of products.

What is there to balance these real, these obvious risks? There is the fact that we are trading commodities which for the most part are in surplus in this country and for which we have every right to expect payment. There is the fact that the present Government of Poland has asserted a greater degree of independence of the Soviet Union in internal affairs than has any of its predecessors. That Government is in office by virtue of an election which most observers agree was the freest Poland has had since World War II. It is a Government that has made peace with religion. It is a Government that has permitted some exercise of freedom of press and assembly.

Had the President and the Secretary of State not dealt with this Government, is there not every likelihood that Poland would have gone the way of Hungary? Is there not every likelihood that the massacre of thousands of patriots would have been repeated? Is there not every likelihood that the refugees would have streamed out of Poland, seeking a haven in this country, or wherever else a sanctuary might be offered? And was there not every likelihood that in the end Poland would have found itself, as Hungary is now, under tighter Russian and Communist control, under a heavier boot of repression?

Some years ago, there was a great deal of loose talk about liberation of Eastern Europe. In the past year, we have seen the actual forces of liberation at work in two countries, in Hungary and in Poland. In the one, they have worked violently. In the other, violence has been minimal.

With respect to the first, Hungary, we have provided countless words of condolence for the martyrs of the uprisings. We have had U. N. resolutions of condemnation, sponsored by the United States and others, leveled at the Communist oppressors of the people. We have had a U. N. report condemning Soviet intervention. This body also adopted a resolution on the subject by unanimous vote. The President admitted thousands of refugees who fled from the terror of Budapest. The United States has spent tens of millions of dollars to care for these refugees and to move them to safe havens. All of these measures express deep sympathy on the part of the people of the United States and other free nations for the Hungarians who have been victimized by tyranny.

Have these measures, however, produced the liberation of Hungary? Or is the lid of oppression now sealed more tightly than ever? Is Hungary an example of the kind of liberation that those who used this term so glibly desire in Poland? In Rumania? In Czechoslovakia? In Bulgaria? In Albania?

Or is there not something to be said for the course the President and the Secretary of State have now taken with respect to Poland? Is there not something to be said for a course which anticipates a gradual change in the political structure of Eastern Europe, through the working of internal forces, through the influence of peaceful trade and other contacts with free nations?

It seems to me that those in this country who object to the administration's course in Poland must either recognize that they are indulging merely in vocal or other forms of protest, while they let matters rest as they are in Eastern Europe, or they must be prepared, in the last analysis, to shed the blood of Americans to change them.

I believe, as I have said on other occasions, it is a serious error to regard the region of Eastern Europe as a single entity, to be treated in foreign policy by identical measures. Each of these countries, now dominated by communism, has a set of unique national problems and unique national traditions. Each country will grope for freedom in its own particular way, as we have seen in Yugoslavia, in Hungary and, as I believe, we are now seeing in Poland.

We do not serve the cause of freedom or the interests of this country when we blockade these eastern European countries as a closed Communist corporation and merely seethe in the juice of our own moral indignation. In so doing we close only our own eyes and indulge ourselves in the luxury of self-righteousness.

It seems to me, Mr. President, that we have much more to gain and so, too, have the peoples of Eastern Europe if we extend our commercial, our diplomatic and other contacts with each country of that region as the occasion presents itself, rather than by attempting to deal with these peoples as a mass, in the abstract, and from afar. Let me make clear that I am not suggesting a hard-hitting, short-cut, sure-fire policy for ending communism and building democracy overnight in Eastern Europe through an expansion in the operations of the aid program, or the information program, or the CIA or all three combined.

The countries of Eastern Europe, in varying degree, have been searching for secure national freedom and for popularly responsible government not only since the Communists have arrived but for decades and even centuries. They are not going to find these goals overnight, regardless of what we do or fail to do. What I am suggesting, therefore, is an approach of the open mind and critical and discriminating judgment. It seems to me that as a first step, the Secretary of State in his travels abroad might see fit to visit those countries of Eastern Europe where he feels it may be useful to go and to bring back a report to the people of the United States on what is actually going on in them.

I make the suggestion not out of mere curiosity but because the situation in Eastern Europe, particularly as it involves Poland and Czechoslovakia, is highly relevant to the overriding problem of the stability of all Europe. The Senate will recall that World War II was precipitated primarily by the forced collapse of the independence of these two nations. It is difficult to visualize how peace in Europe can now be built unless both countries regain a secure and independent national existence. I cannot see how they shall obtain such an existence without a substantial commercial, diplomatic and cultural contact with the nations to the west, including the United States. In its absence, they will inevitably remain closely tied to the Soviet Union. They will inevitably retain vested interest in the Soviet policy of perpetuating the division of Germany. In that sense, especially, they will remain a continuing source of instability in Europe.

Frankly, I do not know, Mr. President, whether substantial contact with Eastern Europe is possible. A few years back, those nations themselves made such contact impossible, largely by their arrogant and irresponsible behavior toward citizens of the United States. There have been changes in this respect in Yugoslavia. There are now signs of other changes, particularly in Poland and, perhaps, there will be others elsewhere in the near future. I believe the Secretary of State could perform a highly useful service by a firsthand exploration of the significance of these changes.

### THE FAR EAST

Turning to the other side of the globe, Mr. President, I should like to refer to a speech on China policy which the Secretary of State made in San Francisco on June 28. This was the fullest official treatment of the question that we have had in many months. It contained nothing new. It contained little with which this body would disagree, in the light of the various resolutions which have been adopted on Communist China in recent years.

The Senate has expressed itself many times in opposition to admitting Communist China to the United Nations; the Secretary reaffirmed the opposition in his speech. The Senate has expressed itself in opposition to the recognition of Peiping; the Secretary reaffirmed this opposition. I supported these Senate resolutions. I believe they were and are sound resolutions.

It is not so much, therefore, with the consent of the Secretary's speech that I find myself in disagreement. One could take issue, perhaps, with some of his reasoning and his assumptions of certain functions of moral judgment which more properly belong to the clergy and to history. In general, however, it is not what is included but what is omitted that is disturbing. After all, what has been the principal issue related to China policy during the current session? Has it been the question of the admission of Communist China to the U. N. or the recognition of Peiping? These questions have not been seriously at issue so far as I am aware. Yet the Secretary's remarks in San Francisco were largely a justification of the position he has taken on these questions.

Where in his speech does the Secretary mention the ban which has been imposed on the press of the Nation with regard to gathering the news in China? In a major statement of policy, the first

on the subject in many months, the Secretary chose to omit reference to the one question that has been seriously at issue, to the one question that has raised serious doubts about China policy. His speech failed even to include mention of this very significant question. It did not make clear why the administration has found it necessary to deny to the people of the United States a principal source of impartial information on one of the most complex and dangerous situations that this country has ever faced—the source which could be provided by the public press of this Nation.

Previously we had been told that the ban on travel of newsmen to the China mainland, in effect, was an essential element of high policy respecting the Far East. Rarely in my years in Congress, however, have I heard weaker arguments presented by officials to support a view than those on this point which came from the executive branch.

We have been told by the administration, moreover, that if the people are not satisfied with the information which the executive branch chooses to release on the China situation, they can turn in effect to foreign newspapers who have representatives in China, or that our press can hire correspondents from foreign countries to go to China. We have also been told, not by the courts but by the administration, that a free press, in effect, means freedom to publish the news but not to gather and verify it, that the right to gather and verify news, at least as far as international matters are concerned, is controllable by the executive branch.

Is it any wonder that the Secretary of State did not include a statement on this significant question in his remarks on China policy on June 28? Has there ever been a more invidious invitation to irresponsible and arbitrary government than the concept of the press in relation to foreign policy which the executive branch has advanced in this matter? A free press in foreign policy, Mr. President, no less than in other matters, is not a right to be granted or denied by any administration. It is an absolute necessity for free government in this country. The press in foreign policy, as in other matters, is not a tool of Government policy. It is an independent and essential check on that policy.

As one who has had occasion to find many times a greater accuracy in the Nation's press than in the press releases of the executive branch—under both Democratic and Republican administrations—as one who prefers the reports of the press and newsmen of this Nation to those of the press and newsmen of foreign nations, I am compelled to take issue with the administration on this question.

It is difficult enough for American correspondents to obtain information abroad in the best of circumstances. The restrictions under which they work in many countries are too well known to require repetition. It is bad enough when the Nation's press is hemmed in and prevented from the full exercise of its functions by the arbitrary acts of other governments. It is intolerable when its freedom is limited by the arbitrary action of the executive branch of our own Government.

Legitimate representatives of the press of this Nation must be free to go anywhere that they are able to go to bring back information which may be of value in informing the people of the United States. The press and the public, not the Congress, and certainly not the executive branch, must be the judge of where their representatives are to go and what news is of value.

If for reasons of high policy or other circumstances the executive branch cannot extend the sanction and protection of the passport, then it ought not to do so. If legitimate members of the press, however, are prepared to assume the very real risks of travel without the passport in order to gather the news, they are performing a courageous service on behalf of the people of the United States. It is indefensible for anyone in this Government to seek to punish them for their courage.

There are reports of new stirrings, both ideological and popular, within Communist China. These reports come to us thirdhand, fourthhand, and fifthhand. They may have great significance or they may have little significance for the policies we are pursuing. Does the Senate have any idea of the accuracy of these reports or their implications? Does the executive branch? Yet the desire of the press of the Nation to begin to get some firsthand facts on which independent evaluation of these reports, on which independent thought might be based, is treated by the executive branch as something akin to a high crime. I am aware, Mr. President, that the Secretary of State has stated in press conferences that the question of permitting newsmen to go to China is under consideration. Is it a question, however, which needs to be placed under consideration—under this Government term which is so often synonymous with indecision and delay?

That, Mr. President, was one omission in the Secretary of State's speech in San Francisco. There was still another. Nowhere is there a discussion of the shift in British trade policy with respect to Communist China. Yet that has been one of the most significant developments in the Far Eastern situation in many months.

The United Kingdom has now lifted the ban on all exports of goods to China except actual implements of war. How long will it be before other nations of Western Europe and Japan take the same path? What significance does this change have in the general situation in the Far East? What significance does it have for the long-range interests of the United States in that part of the world?

The Senate does not have the answers to these questions. I doubt very much that the executive branch has the answers.

Mr. President, present policy with respect to China may or may not be adequate for safeguarding the interests of this country. We do not know. We do not know because that policy is gripped in a straitjacket of Government-enforced ignorance. For the first time in my recollection, public divorcement from independent access to the facts has been glorified by an administration of this Government as an essential element of foreign policy and of international morality. I am hopeful that out of this divorcement will come a reconciliation. I have every confidence that Secretary Dulles will do what has not been done to date, and that is to bring the China press coverage incident to a conclusion in the near future.

I note by this morning's newspapers that the Department of State has just invited representatives of the American Society of Newspaper Editors to discuss this issue. This is a welcome step, and the Secretary of State is to be commended for taking it. I hope the Department will now move rapidly from the discussion stage, and bring this issue to a satisfactory conclusion.

THE MIDDLE EAST

I turn next, Mr. President, to policies respecting the Middle East. Palliatives of various kinds have been applied in that region in recent months. They have helped to restore a measure of calm. The political fevers in the Middle East apparently have cooled or, in any event, are under better control. Before they begin to rise again, however, I believe it is essential that action be taken to get at the causes of the fever.

The basic problems of the Middle East, Mr. President, are little changed from what they long have been. Moreover, if the policy of this country continues to follow the grooves of ancient habit, it is likely to have little effect on these problems. We shall continue to underwrite the major part of the cost of sustaining the Arab refugees, as we have been doing for years at a cost of tens of millions of dollars a year in public funds. We shall continue to give some economic aid here, some military aid there, and be accused on all sides of miserliness or favoritism. We shall continue to rain outraged moral castigation on the heads of the Russians for doing what has been done by aggressive nations in that region for centuries—fishing in troubled waters, as though this were the first itme that it had happened. We shall continue to shower favors indiscriminately on the governments of the Middle East so long as they are vocally anti-Communist. We shall continue to give little consideration to whether or not these governments serve well and responsibly so that they might have some claim on the loyalties of their peoples as against the appeal of totalitarian communism. We shall continue to abhor the use of force while we minimize the factors which may have provoked its use.

I do not wish to underestimate the complexity of the problems of the Middle East. I do not wish to overestimate the capacity of this Government to resolve them. What is disturbing, however, is that these problems still contain the seeds of world conflict despite the surface calm in that region. What is disturbing is that we have spent untold sums of public funds, and are likely to spend hundreds of millions of dollars more, without perceptibly affecting these seeds of conflict. What is disturbing is

that the executive branch does not appear to be particularly concerned by that prospect.

It seems to me, Mr. President, that if the people of this country are to be expected to support these expenditures in the Middle East for much longer, there had better be some evidence that the expenditures are not merely sustaining an indefinite holding action. There had better be some evidence that they are producing positive progress toward peace in the Middle East. The time has come, it seems to me, to establish a very close link between the destination of aid funds and the willingness of the recipients to contribute to a permanent solution of the problem of the Arab refugees and the right of peaceful transit of Suez and international waters in that region. The time has come to apportion these funds more than is now the case in terms of the degree of responsiveness of the various Middle Eastern governments to their people and their concern for the rights and welfare of their people. The time has come to apportion these funds more in terms of the degree to which the nations of the region show a readiness to work for peace in the region rather than in terms of appeasement of the belligerent or in terms of their articulateness in proclaiming their anticommunism.

The time has come, perhaps, to seek international control over the arms traffic in that region, a traffic which is diverting the resources of the Middle East from the desperate needs of their peoples. The more arms are supplied to that region, the more instability is induced and the more that expenditures by the United States are required to maintain even a semblance of order. That is the formula the Soviet Union used to produce the crisis at Suez a few months ago. It is a formula that may now be making new crises in that region. I should very much like to see this country take the initiative in an attempt to alter it.

THE AFRO-ASIAN NATIONS

I allude next, Mr. President, to the so-called less developed areas of the world, to the countries of Asia and Africa. Our policies, with respect to them, in broad outline, are in my opinion the kind of policies which are mutually advantageous and helpful. These policies support the concept of national freedom; they support the concept of economic growth; they support the concept of collective defense against totalitarian aggression.

The recent visit of the distinguished chairman of the Committee on Foreign Relations [Mr. GREEN] and a subsequent journey by the Vice President to Africa did much to clarify the position of the United States with regard to that continent. Similar visits by members, such as that of the distinguished Senator from Minnesota [Mr. HUMPHREY] to the Middle East and by others to the Far East, have provided additional support for the position of this country.

Despite the effort of these Members, despite the excellence of the principles on which our policy is based, there is no denying the fact that our relations with the less-developed areas, in practice, have not been as satisfactory as they might be. There has been disappointment and criticism on our side. There has been suspicion and criticism on theirs.

Some friction is unavoidable in the relations between all nations. It seems to me, however, that the administration of our policies abroad has contributed unnecessarily to this friction. There have been inept statements by various spokesmen of the administration. In an anxiety to convince the Afro-Asian nations of the good intentions of the United States, moreover, the executive branch, I believe, has sometimes gone too far. It has overloaded them with public relations. It has overloaded them, in some cases, with aid, military and economic. It has overloaded them with officials, military and civilian.

The rioting on Formosa, the anti-American demonstration in the Philippines and elsewhere are warnings that should not go unheeded. They are warnings that the amount of official activity undertaken by this country is not a measure of sound relations.

These warnings have been raised many times in the past by Members of this body, who have traveled abroad. Yet, they have gone unheeded in the executive branch.

If there are to be sound relations with the Afro-Asian nations they are not going to be purchased relations. They are not going to be relations induced by the legerdemain of public relations. They are not going to be relations built on military assistance which raises the levels of armed forces far beyond the capacity of the peoples of other countries to support. They are not going to be relations built on verbal professions of friendship. They are not going to be relations built by substituting our efforts for the efforts of others, our initiative for an initiative which must come from elsewhere.

What is needed above all, Mr. President, is an administration of policies affecting the less-developed which makes clear that we regard these nations as coequal, in fact as well as in words. We need, in practice, an information program that seeks to inform, not to saturate. We need a point 4 program which encourages people-to-people technical exchange on a mutual basis. We need strong exchange-of-persons programs, two-way exchanges. We need an economic aid program on a repayable basis that promotes economic independence and responsibility, a program that promotes self-growth, not continuing dependency on this country. We need a military aid program which is rationally adjusted to the total strategy of defense against aggression, not a program which might make it convenient for irresponsible governments, in the name of anticommunism, to evade their responsibilities to their peoples by the aid-reinforced strength of their armies and police. We need official United States representation in these countries kept to a reasonable size. We need representatives who reflect in their conduct the sincerity and the democracy of this country, not the pretenses of a dying colonialism. Congress has done a great deal of what can be done to provide a legislative basis for sound friendly and mutually advantageous ties with the less-developed countries. It is up to the executive branch to administer this legislation in a fashion which does in fact produce such ties.

LATIN AMERICA

Respecting our relations with the other republics of the Americas, a positive approach to peace requires, not so much a revision of policy as it does a more dynamic expression of policy. Whether it be called good neighbor or good partner, the policy of the United States ought constantly to be kept abreast of the changing situation in the countries of Latin America. It ought constantly to seek out ways, new ways, for advancing the common interests of the hemisphere, our interests, and the interests of the good neighbors or good partners.

Mr. President, the situation is changing in other parts of the Americas and it is changing rapidly. The economic growth of many Latin American countries in the past decade has been phenomenal. With it has come a growing national consciousness. With it has come an increasing impatience with self-seeking, ruthless dictatorship. With it has come a spreading determination to obtain responsible governments capable and willing to serve the needs of all. Our policy needs to be tuned to these developments more acutely than is now the case. It needs to be tuned to the rising voice of the people of Latin America and to treat, with appropriate skepticism, those who seek to drown out that voice.

In a situation of change such as now exists in Latin America, the opportunities are present to develop closer ties in commerce and in culture, among all the nations of this hemisphere. Opportunities exist to do many things in common with the Latin American countries, which will enrich the lives of the peoples of all the American Republics. Even the basic machinery exists to capitalize on these opportunities, in the Organization of American States.

What is lacking it seems to me, is a realistic appraisal of the opportunities and the initiative to seize them. Suggestions have been advanced in the Senate and elsewhere pointing out avenues of cooperation which, at the least, are worthy of the fullest exploration. I should like to revive at this time two such proposals which I made last year. One called for an exploration of the possibilities of establishing a University of the Americas, perhaps in the Commonwealth of Puerto Rico. The virtues of that island, as a kind of showcase of enlightened democratic progress, have recently been discovered by some of the spokesmen for the administration. They have found that Puerto Rico has made extraordinary advances in the past two decades, that it is a natural point of fusion for all the cultures of the Americas. I, personally, should like to see a study made to determine whether it or some other centrally located place, might house a great university which would foster the interchange of the wisdom and experience of all the nations of this hemisphere.

I also suggested last year that the time may be coming to shift a greater part of the responsibility for the point 4 technical assistance program in this hemisphere from a bilateral basis to a common endeavor of the Organization of American States. If this change were made the burden of the costs of the program might well be spread more equitably and the material returns from it to all the American Republics might be greatly increased. The intangible gains in good will and in the unity of the Americas, moreover, might be even more valuable. I do not know whether such a change is feasible. I do know, however, that nothing would be lost in exploring the possibility, exploring it seriously with the other American Republics.

Similarly, there are other ideas which have been advanced in recent years that merit the fullest consideration. Among these have been proposals for a regional development bank and, more recently, for regional trade arrangements.

It may be, Mr. President, that in the field of Latin American relations, as in others, the Senate, through its Members and committees, must seek to supply the initiative which the executive branch lacks. In at least one instance that has already been the case. Amendments introduced by the distinguished Senator from Florida [Mr. SMATHERS] have done much to insure more adequate consideration of Latin America in the operations of the foreign-aid program.

THE SOVIET UNION

Before concluding, Mr. President, I refer to our relations with the Soviet Union. It goes without saying that this question transcends all other issues of foreign policy.

What is the state of these relations, Mr. President? They are relations characterized in official circles by fear, suspicion, hatred, bitterness, and pettiness, not on the Russian side alone, not on this side alone, but on both sides. They are relations held together by the slenderest thread of contact, by a minimum of civility.

Yet on that contact, on that civility hangs the peace of the world. On that contact, on that civility rests the fate of mankind. More than once, the thread has been stretched to the breaking point. Each time the crisis has abated. Each time the thread has held. It has held, I believe, because to contemplate a final rupture of the thread is to contemplate neither the annihilation of totalitarian communism alone, nor of free democracy alone, but the end of human civilization as we have known it. Even the most ruthless of authoritarians shrink from that prospect.

It may not always be so, Mr. President. A miscalculation, an act of madness, can sever the thread. There is no assurance that this so-called peace of mutual terror will last forever. The fact is that this so-called peace is not peace at all. It is a desperate clinging by fingertips to survival. It is a tortured dance of diplomacy on the edge of the abyss. It is a trembling light of hope in an encircling darkness of unspeakable disaster.

Can we fix a firmer grip on survival? Can we find a more secure path on which to walk? Can we strengthen the light? Can we, in short, build a more stable and secure peace than the peace of mutual terror?

Earlier in these remarks, Mr. President, I expressed the view that there never has been and probably never will be an absolute security for this Nation or any nation. There are, however, degrees of insecurity. The individual pursuit of absolute security by this Nation, no less than the Soviet Union, has led both nations close to the maximum permissible degree of insecurity, short of the total insecurity of nuclear war.

The level of insecurity has risen, despite the expenditures of hundreds of billions of dollars by both sides to maintain swollen armed forces. It has risen, despite phenomenal advances in the scientific technology of war and defense, even to the point of the almost-pure bomb—the 96-percent-pure bomb—the bomb that kills without the prolonged agony of radioactive poisoning. The insecurity has risen despite 10 years of diplomatic jockeying for bases, for allies, and propagandistic advantage.

What have we to show for this enormous output of human energy? What have the Russians to show for it? Is the world better off? Are the Russians? Are we? At best, Mr. President, the most we can say is that we have perhaps managed to keep the Russians a little more insecure than we are ourselves.

I do not suggest, Mr. President, that we could have done anything much differently than we have during the past 10 years. The universal forces which set in motion fears among whole peoples are still beyond human grasp. Once they are in motion, there is no turning them aside until they have run their course. Governments must deal with the day-to-day eruptions which these fears produce. If military strength elsewhere threatens the safety of this Nation, what else is there to do but to develop counterstrength? If aggressive diplomacy and propaganda mark us as the target for eventual annihilation or the source of all evil, do we have any choice but to respond in kind?

No, Mr. President, I cannot suggest that we go back and relive the past decade of Soviet-American relations in another way even if that were possible. What I do suggest is that we look carefully at where we are now. I suggest that we ask ourselves whether there is another road, not to the goal of absolute security, but to the goal of relatively greater security for this Nation and other nations than is now enjoyed by any nation. Is there, in short, a road to a more stable peace?

I do not know, Mr. President, whether or not such a road exists. As I noted earlier in my remarks, it is not for us alone to find it. The attitudes which underlie Soviet policy are obviously a key factor. In this connection, the recent political upheavals in Russia and the eastern European countries may facilitate or impede the search.

Regardless of the effect of these changes, however, I believe the road to peace will not be found at this time, in another broad Summit Conference—and I differentiate between a conference having to do with one particular subject and a broad Summit Conference—which obscures the hard realities of peacemaking under the glitttering generalities of peace.

It will not be found in a fruitless search for an all-embracing disarmament agreement which will guarantee in one stroke the absolute security of this Nation and all nations—a search which seeks to take the last step first.

It will not be found in propaganda campaigns of mutual hate or even mutual love between ourselves and the Russians.

It will not be found in policies and attitudes, whether Russian or our own, which put a premium on ignorance of the facts about each country among the people of the other.

It will not be found in a competition for the placing of petty restrictions on the officials of each country who must reside in the other to carry on the legitimate business of their governments, and I stress the word "legitimate."

It will not be found, this road to peace, if either side assumes that any concession to the other is in itself a sign of weakness or that any refusal to grant a concession is in itself, an indication of strength—and the more adamant or belligerent the refusal, the greater the strength.

It will not be found, finally, unless the policies of this country and the Soviet Union recognize that the road to peace is infinitely to be preferred to the continuing vergency and the ultimate calamity of nuclear war.

If it is not to be found in these ways, Mr. President, where then are we to look for the road to a more durable peace? Once again, Mr. President, I must emphasize that peace does not depend on the actions of this Nation alone. The most we can do is to pursue policies which will lead to peace if, in fact, circumstances are ripe for it and others are prepared for it. I reiterate that the key factor from the point of view of our own foreign policy is a greater reflection in that policy of the positive faith of the people of the United States.

Only the President, with such assistance as the Congress may be able to give him, is in a position to make that faith felt in official action. It is to the President the people must turn for an assertion of that faith in the Nation's foreign policy.

If the President provides the essential leadership then the first steps toward a more durable peace have already been outlined by the distinguished majority leader [Mr. JOHNSON of Texas] in his address in New York several weeks ago. If the President provides the essential leadership he will see to it that these proposals are not lost in the labyrinths of the executive bureaucracy. These were not complex and improbable proposals which the able majority leader advanced. They were simple, reasonable proposals of a nature that expressed the faith and the confidence of the people of the Nation. They cut through the endless prattle about peace and showed the way to action for peace.

The proposals called for an interchange of contact by radio, TV, and

other media between the people of the United States and Russia. They called for a small bite at the problem of control of arms, a cautious but very real bite, rather than a mouthful of platitudes about the blessings of the elusive goal of disarmament.

They were, in short, proposals which were designed to make clear that the United States did not fear to lift the Iron Curtain, if the Russians were prepared to raise it. They were proposals designed to make clear that the United States understood the fears of the world concerning nuclear weapons and was prepared for international action which would reflect that understanding.

These were eminently sound proposals, Mr. President, and to them, I would add one more at this time.

It seems to me high time for an end to the petty restrictions which the Soviet Union has placed on the reasonable freedom of movement of our official representatives in that country and the reciprocal restrictions which we have placed on theirs in this country.

If mature officials of both countries insist upon behaving like schoolboys in this limited matter, how are they to be expected to deal with the complex problems of war and peace? I would like to see this Government confident enough and big enough to take the lead in trying to restore, on a reciprocal basis, the treatment of official representatives in both countries to a decent level of civility.

CONCLUDING COMMENTS

Mr. President, I have made these lengthy remarks today because within a few weeks, Congress will probably stand in adjournment until the new year. The months ahead, when we are away from the Capitol, will be decisive months. They may witness new crises which will again stretch the thin thread of peace. Or the coming months may mark the beginnings of a new stage of foreign policy. It may be a stage in which the words of peace which echo from all nations are translated into actions of peace by all nations. It may be a stage in which the President embarks, not on a crusade for peace, but on a rational search for ways of reflecting more accurately the attitudes of the people of the United States in the policy of the United States, a search for ways of reflecting less the fears and uncertainties with which we live, and more the faith and the confidence which underlie the freedom and the greatness of this country.

If the President does pursue that kind of policy, consistently and firmly, he shall not lack for support in this body. He shall not lack for support among the people of the United States. He shall, in fact, mobilize that support and the support of many nations to meet the great challenge of the remaining years of this century. That challenge, Mr. President, is to turn mankind from the dangerous flirtation with human extinction which now goes on, to the work of constructing the free institutions and the durable relations which will make possible a decent life, a decent fulfillment for the people of this Nation and of all nations.

That is the challenge which confronts us, Mr. President. It is a challenge of faith and of action. We can meet that challenge. We must not, at our peril, fail to meet it.

Mr. JOHNSON of Texas. Mr. President, I believe the junior Senator from Montana [Mr. MANSFIELD] is entitled to warm congratulations from the entire Nation for his brilliant and his thorough exposition of the current status of this Nation's foreign policy. The junior Senator from Montana is a scholar; but even more than that, he is a man of faith in the American system and in the basic strength of American ideals.

The Senator's speech this morning in its entirety appealed to me, and I believe it will appeal to the people of the world.

The part which should be driven home, I think, day after day is that fear as a factor in our foreign policy should give way to faith. Far too many of this country's actions and its reactions have been purely defensive for many, many years. There has been a feeling that the primary objective should be to hold the lines and to maintain the points which are allegedly strong.

In what is generally termed the war of ideas, I do not think there should be any hesitation or vacillation on our part whatsoever. We should not be fearful about the effects of communistic ideas. We should, instead, proceed on the assumption that American ideals are so much stronger than anything the Soviets have to offer that the result of any clash will be a foregone conclusion.

Mr. President, that was my primary motivation when, a few weeks ago, I proposed an open curtain. I felt then, and I feel now, that we should have hurled Khruschchev's challenge right back into his teeth—vigorously, immediately, dramatically—so that he could not dodge. It is unfortunate that the reaction of America came later, and less forcefully.

Again I wish to congratulate the junior Senator from Montana [Mr. MANSFIELD]. I believe he is one of the great men of our time. I believe he is helping shape a firm, strong, bipartisan foreign policy to which all Americans can adhere. I think the statement he has made to the Senate this morning is an able, comprehensive, constructive address, and a very timely review of our relations with the rest of the world. I hope that as we conclude this long week of labor, we shall have time, on the Sabbath, while in our homes, to reflect on, review, ponder, and consider the very wise suggestions made by this very learned and trusted colleague of ours.

Mr. MANSFIELD. I wish to express my deep thanks to my friend and colleague of many years, the distinguished majority leader [Mr. JOHNSON] for his kind words, his constant encouragement, and his deep understanding.

Mr. THYE. Mr. President, I have been on the floor during much of the speech of the distinguished Senator from Montana. I would subscribe to, and agree with, some phases of his speech; in the case of other phases of his speech, I would not.

I should like to say to the disinguished Senator from Montana that today, when President Eisenhower is in the fifth year of his service as the Chief Executive of the Nation, I distinctly recall that when he first took office, the United States was engaged in war, and the blood of our youth was being shed in Korea.

In 1953, the Senator from Montana [Mr. MANSFIELD] and I were in the Indochina area. He had preceded me there by a very few weeks. At that time, the United States was in a very, very difficult position, in the case of Indochina and Vietnam. The able leadership of President Eisenhower has brought the Nation from a war crisis in Korea and a very serious crisis in Vietnam, to a condition of peace; and today there is peace throughout the world. In this 5th year of President Eisenhower's administration, no American blood is being shed upon a battlefield anywhere in the world.

Mr. President, although all of us may be able to criticize, I wish to state that I believe President Eisenhower and the State Department are giving the kind of leadership which today is bringing the world toward the lasting peace for which all of us seek and pray.

Mr. SPARKMAN. Mr. President, I certainly have no inclination to argue with the distinguished Senator from Minnesota [Mr. THYE], in connection with the statement he has just made. But I believe we might well consider, in this connection, one of the many excellent statements the able junior Senator from Montana [Mr. MANSFIELD] made in the speech he has just concluded. I refer now to the kind of peace which exists at this time. Certainly it is peace, in the sense that guns are not being fired and people are not being killed. But it is an uneasy peace. If I correctly understand the very able speech the distinguished junior Senator from Montana has just concluded, in it he urged a positive approach, with the idea of making certain that the present uneasy peace becomes a durable peace, one in which we can feel easy.

Mr. President, my purpose in seeking recognition was to commend my friend and colleague on the Foreign Relations Committee, the junior Senator from Montana [Mr. MANSFIELD], for the speech he has just delivered. I have heard many speeches on various phases of foreign relations; but I think the speech the Senator from Montana has just concluded is the most adequate, most complete, most thorough presentation of the situation existing today that I have ever heard. I wish to compliment him upon his presentation, in which, in a brief way, he has pointed out the problems existing in many sections of the world, and has made many constructive suggestions as to how we can make a positive approach and how we can get away from the negativism which has characterized the uneasy peace which the world has confronted, if not enjoyed, during the past several years.

I should like to ask the Senator from Montana a question. He referred to some of the schoolboy activities in which the United States has been engaged. I wonder whether he read in the press, only a few weeks ago, that the United States was denying to the families of the officials of the Soviet Embassy the right

to use their cottage on an ocean beach during the summer. It was stated that that was being done because the Soviets had restricted some of our representatives in the Moscow area. I wonder whether that is not an apt illustration of some of the schoolboy activities in which our country has been engaged.

Mr. MANSFIELD. Personally, Mr. President, I wish to express my thanks for the remarks of the distinguished Senator from Alabama. I appreciate them more than I can say, because I look up to him as a mentor of great stature, as a colleague of outstanding ability with whom I serve on the Foreign Relations Committee, as one with whom I have had the honor and pleasure of serving with in the House of Representatives, and as one in whose judgment I have the greatest confidence.

I think the Senator from Alabama has pointed out one of the most apparent illustrations of any consequence of the kind of activities which I designated by my use of the term "schoolboy." I refer to the attitude that, because of certain limitations the Soviets have imposed, the United States will not allow the families of the staff of the Soviet Embassy to travel 40 or 50 miles to a beach. To adopt such an attitude because the Soviet officials will not allow the families of Americans to travel a similar distance in Russia, is, I believe, not only schoolboyish, but childish on both sides. If we have to operate on such a basis, then I think the future of the world is in a precarious situation.

In the words of our former colleague, the great Senator Walter George, the former chairman of the committee on which the Senator from Alabama and I now serve, I believe we should be big enough to take the initiative, and I believe we should be competent enough to put into effect policies which will bring about a different climate than the one of uneasiness which exists in the world at the present time. Peace is a good thing to talk about it; but it is a hard and difficult objective to achieve.

As I look back on the history of the world, or at least the written history of the world, I find that it is rather hard to pick out any period in which there was real peace. What we had better try to achieve is a greater degree of security and a lesser degree of insecurity.

Mr. SPARKMAN. Mr. President, I should like to ask the Senator from Montana another question. Do I correctly interpret the message he has tried to deliver all through his remarks as one which is not so much in criticism of what has been done, but as a challenge to do more, to work harder, and certainly to follow a positive program, rather than simply to take certain steps because of certain steps the Russians have taken?

Mr. MANSFIELD. Mr. President, the Senator from Alabama is correct. I made the speech in what I thought was a responsible spirit of cooperation. I am well aware of the difficulties which face the President and Secretary Dulles and I sympathize with them. They have made great contributions to the welfare and security of our country and I honor them for their efforts and accomplishments. I realize that they are the inheritors of some old difficulties carried over from Democratic administrations; and I also realize that they, themselves, are the origin of some new difficulties of their own. I have every sympathy for them and, I hope, an understanding and an appreciation of the difficulties they and we face. I think the attitude of the Democratic Party during the past 4½ years of the present Republican administration has been one of great and real responsible cooperation. We can go to the people and can point out to them that we have tried to be cooperative. We recognize that there are many difficulties which this administration faces, and which any administration would have to face. But we can also point to the fact that, so far as we as a party and as the majority in the Senate are concerned, we have done our very best to operate on what some call a bipartisan basis, and what others call a tripartisan basis. We offer these suggestions, not primarily in a spirit of criticism, but in a spirt of helpful cooperation, in the hope that some of our suggestions will prove useful, and that the executive branch will, if they find some of them worth while, begin to put them into operation.

Mr. SPARKMAN. As I understand the proposal of the Senator from Montana, it is one of cooperation.

Mr. MANSFIELD. It is, indeed.

Mr. SPARKMAN. I understand that the proposal of the Senator from Montana is one of cooperation between the Congress and the Executive, and, as he has so well pointed out, between the Democrats and the Republicans, in working toward the common goal of establishing a world in which all of us can feel secure.

Mr. MANSFIELD. There can be no question about that. I may say that I have always held the view that, in the condition in which the world finds itself at the present time, if we come out on top and win, we all win, but if we go down and lose, we all lose; and there would be no such thing as a differentiation between a Republican and a Democrat. I think we ought to look at the matter as we have in the past 4½ years, and realize that the field of foreign policy is beyond partisan considerations, and that we should do what is best for this country and the countries of the free world.

Mr. ERVIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Alabama had the floor.

Mr. SPARKMAN. Mr. President, I had yielded the floor.

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## SOVIET ARMY IS BETTER EQUIPPED THAN UNITED STATES ARMY TO FIGHT UNDER ALL KINDS OF CONDITIONS

Mr. WILEY. Mr. President, I am very sorry I had to be in attendance on a special committee meeting this morning, and did not hear the address which the junior Senator from Montana delivered. He always delivers what is at least a thought-provoking address, although I may not agree with it.

I merely wish to say, in respect to the discussion I have heard, that the other night it was my privilege to sit with a group of very distinguished officials, some from abroad, some representing the highest echelons in our own Government. What was discussed informally was the situation throughout the world. There particularly was brought into strict focus conditions in Russia, and the explosion that occurred there very recently. I now read from something I put into the RECORD yesterday. Newsweek reported from Warsaw as follows:

> Reports reaching here indicate all Soviet armed forces at home and abroad were in a state of alert when the central committee met in Moscow to depose Molotov and company. Presumably under Marshal Zhukov's personal orders, tanks and planes were armed and ready to go into action at a moment's notice.

We have seen what has happened when millions are liquidated. The matter of treating with people who indulge in that kind of conduct is not a parlor game. It is not a question of simply sitting down at a table and reasoning with them. We have tried that.

In this connection, Mr. President, I call attention to last Sunday's New York Times, which contained a most serious report that should give pause to every thinking American. The article quotes a current review in the United States Army's own Information Digest, an official publication, to the effect that "the Soviet Army is the only major force in the world today that has a complete new postwar arsenal of weapons in being capable of fighting either a nuclear or nonnuclear war, big or small, in any kind of climate or terrain."

Mr. President, we are talking about foreign policy, as I understand the speech which the distinguished junior Senator from Montana made. We are dealing with people who excel us, according to this article, in equipment of all kinds. Why? We have been talking for a week about civil rights, but I think the Senator from Montana probably has done well in bringing into sharper focus today the fact that we have another goal to attain, namely, the maintenance of our own security.

### ARMY INFERS ITS OWN INFERIORITY

Mr. President, the question is: How is it that even the United States Army acknowledges—if one reads between the lines—its inferiority in weapons to its potential adversary?

We always knew, of couse, that the United States Army was numerically inferior. We have but 19 or so divisions, compared to the Soviet's 175 Red army divisions.

But surely the least we have a right to expect is that we are qualitatively superior. Surely, we have a right to expect that we have better weapons, better tanks, better self-propelled guns, faster mobility in troop carriers, better small arms, better missiles than the Soviets.

The Army feels, however, that it must practically admit that in many vital categories, our troops are equipped with qualitatively inferior weapons, in addition to quantitative inferiority.

WHY ARE WE NOT AHEAD?

We are spending as much as $40 billion for the United States Armed Forces and for atomic weapons program. Why is it that we are not qualitatively ahead in every major category of weapons?

If war were to come, why is it that brave American boys would once again have to die with inferior weapons against the foe? That is a very serious question, and is in line with the subject which has been discussed today—the question of foreign policy.

Mr. THYE. Mr. President, will the Senator yield for a question?

Mr. WILEY. I yield.

Mr. THYE. From what document is the distinguished Senator from Wisconsin reading?

Mr. WILEY. I am reading now from my own prepared statement, which is based on the New York Times article, I have cited, and the Information Digest, which is the United States Army's own official publication.

Mr. THYE. Mr. President, will the Senator yield briefly?

Mr. WILEY. Yes.

Mr. THYE. As one member of the Military Appropriations Subcommittee, and as one who sat through lengthy hearings with other Members of the Senate, I, as one Member of the United States Senate, would not concede that the Soviets are superior to us either in men or military equipment of any kind. I wish to be positive in that statement, because I sat through those long military hearings. We do have the weapons, we do have the technicians, and we do have the troops, but we do not intend to have a standing army in numbers equal to that of the Soviet Union.

Mr. WILEY. My argument is not in terms of men. I do not pose as an expert on this subject. I am assuming the New York Times article is stating facts. I might say that in a discussion the other night with some military personnel there was a practical admission of what the Times states. I am talking now in terms of keeping America safe. I remember only 36 years ago the Army laughed at Billy Mitchell, and they crucified him; but he went forth and sunk a boat with bombs he built. I am interested in getting insurance for the security of my country, in return for the billions of dollars we are spending.

ARE WE GETTING A SOUND RETURN ON THE DOLLAR?

The Congress of the United States has shown that it is willing to grant whatever reasonable sums the Armed Forces request. The question is, however: Are we getting a dollar's worth of value for every dollar we appropriate?

The more basic question is: What, if anything, is wrong inside the armed services, particularly inside Army ordnance, when even the Army itself acknowledges that our ordnance is, in effect, inferior?

WOULD INCREASE IN FUNDS MAKE A DIFFERENCE?

Let me say that I welcome frankness on the part of the Department of the Army or any service. But its frankness over United States inferiority leads us to inquire just what is wrong in the situation.

I presume that the Army would answer that it is not getting enough money.

I question, however, whether, even if we granted additional billions of dollars to the Department of the Army, our inferiority in ordnance would be corrected.

I certainly want the Congress to provide every dollar that is necessary, in view of our worldwide commitments, and in view of the fact that there is no telling what kind of a war the Army might have to fight, or where, or when. We cannot be penny wise and pound foolish. But if the dollars which we are already appropriating are not doing the job of buying the best possible ordnance, then can we reasonably assume that any increase in dollars will necessarily buy better ordnance, superior to top Soviet weapons?

Mr. President, I send to the desk the text of the disturbing July 7 article from the New York Times, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES ARMY CREDITS SOVIET WITH LEAD—REVIEW INDICATES RUSSIANS ARE BETTER EQUIPPED TO FIGHT ANY KIND OF WAR

(By Jack Raymond)

WASHINGTON, July 6.—The United States Army suggested today that the Soviet Army was better equipped than itself to fight any type of war under any conceivable conditions.

This was stressed in a review of Soviet weapons in the Army Information Digest, an official publication, understood to have been prepared by intelligence officers.

The Digest said that the Soviet Army is the only major force in the world today that has a completely new postwar arsenal of weapons in being, capable of fighting either a nuclear or nonnuclear war, big or small, in any kind of climate or terrain.

Publication of the article coincided with comments made privately at the Pentagon that political problems in the Soviet Union should not be construed as necessarily implying significant military weakness. The tribute to the Soviet Army's capability followed recent United States official tributes to Soviet air and naval power.

It has been recognized here that a good deal of the emphasis on Soviet capability is motivated by the United States military leaders' efforts to gain support for their own estimated requirements.

ZHUKOV ROLE STUDIED

At the same time, Pentagon officials were said to be studying particularly the role of Marshal Georgi K. Zhukov, Soviet Defense Minister, in the latest developments in Moscow. But military spokesmen called attention informally to the tremendous military buildup of which the Russians had been capable despite the great political struggle that has marked recent years.

A report that the Soviet Union successfully had tested an intercontinental ballistics missile could not be confirmed, but one high-ranking official of the Defense Department said he assumed it was true.

The Army report, which was unsigned, indicating a staff effort, cited recent disclosures of Soviet equipment in the operations against the Hungarian rebels. It also noted Soviet equipment used by Egypt.

"Most uninformed Americans today still think of Soviet equipment as cheap, second class, poorly made, and, of necessity, simple enough for unschooled peasant masses to operate," the Army report declared. "The cold facts present a very different picture."

Officials at the Pentagon said they believed insufficient public attention had been drawn to statements made here that the Soviet ground forces still numbered more than 2,500,000.

Wilber M. Brucker, Secretary of the Army, has repeatedly asserted, that there has been no evidence so far that the Soviet Government ever carried out its announced intention of reducing its armed forces by 1,200,000. It was recalled.

ORGANIZED IN 175 DIVISIONS

According to Army sources here, the Soviet ground forces are organized in 100 rifle divisions, 55 mechanized divisions, and 20 tank divisions. Most of these are situated in the border regions of the Soviet Union, except for 21 divisions in East Germany.

"The most significant change in the Soviet weapons system has been the overall improvement in mobility," the Information Digest article stated.

It cited the use of armored personnel carriers, large numbers of amphibious vehicles, and the continued use of self-propelled assault guns.

In Hungary, it pointed out, observers saw Soviet artillery pieces having a small self-contained powerplant attached to one trail of the weapon. This Soviet gun, revealed in the Hungarian crisis, indicated to United States experts an effort to solve problems of rapid concentration and swift dispersal on the atomic battlefields of tomorrow.

After stressing the numerous new trucks, the thousands of postwar tanks, the cargo and personnel carrying helicopters, and a new turbo-prop, high load, short takeoff air transport in the Soviet arsenal, the article added:

"Only the naive would doubt a guided missile capability of the U. S. S. R."

The analysis of Soviet ground forces equipment emphasized that the Russians' new T-54 tank not only was being mass produced but also was an improvement over the T-34, which had proved effective in World War II and the Korean war.

"It has been issued by the thousands to Soviet combat units as a standard weapon," the article declared.

Discussing artillery, the report cited the new Russian 203-millimeter gun-howitzer, which, together with the 240-millimeter heavy breech-loading mortar, is giving the Soviet Army at least 2 weapons with atomic capability.

The Information Digest went into further detail on Soviet arms, illustrated with photographs.

"While recent headlines have concentrated on the sensational aspects of atomic, guided missile, and aircraft development, little has been said about the modern hardware now operational in the 175-division Soviet Army," the article stated.

"The stark simplicity of many Soviet weapons is further evidence of the Soviet research and development program conducted since World War II rather than an indication of any inability to produce complicated weapons."

The United States is understood to have successfully tested an intermediate or 1,500-mile range ballistic missile, the Army's Jupiter, but has not yet decided upon any prototype in this field for mass production.

Gen. Nathan F. Twining, the new Chairman of the Joint Chiefs of Staff, said when he was Chief of Staff of the Air Force that the quantity of weapons in their [the Soviet] arsenal exceeds any nation in the world.

General Twining has said that while the United States was ahead of the Soviet Union in heavy bombers, the Soviet Union led in light or tactical bombers. He has said that

the Russians have developed atomic weapons in half the time estimated by the United States and are moving the modern bombers from the drawing board through production lines in less time than it takes the United States to carry out a similar production-design cycle.

Mr. MANSFIELD. Mr. President, I wish to corroborate what the ranking member of the Committee on Foreign Relations, our former chairman [Mr. WILEY], has said about the disparity in manpower. He knows, because the figures have been published now, that the Russians have 175 divisions under arms, totaling approximately 4,750,000 men, whereas we have approximately between 17 and 19 divisions, some of which are not combat capable or combat ready. I desired to corroborate what the distinguished Senator from Wisconsin said.

Mr. WILEY. I thank the Senator from Montana for his statement in relation to manpower. I am not so much interested in that, because I realize that not long ago General Norstad made a statement, which we were glad to hear, that because of our bases throughout the world, and because of our bomber planes and bombs located in strategic places, we could destroy the power of the Kremlin. I remember that statement. I gloried in it, thinking that that would be the great deterrent to any action on the part of irresponsible governments.

But when I read the article and when I had it partially confirmed the other night, I felt it my duty, Mr. President, to bring it to the attention of the Senate and the country, if my voice has sufficient potency to be heard in the country. I ask others in responsible positions to check into this matter, because we are living in an atomic age.

We are living in an era where we talk about a hydrogen bomb which is several hundred times more effective than the bombs which fell on Hiroshima and Nagasaki, which destroyed 70,000 lives and wounded 70,000 more. Consequently, we cannot afford to miss the boat. We have to be so strong that no nation will attempt in the slightest degree either to blackmail us or to get the jump on us.

If, for reasons adequate to itself, the whole defensive and offensive department of the Kremlin was put on alert only a few weeks ago, when the trouble arose among forces within it—Molotov and Khrushchev—and the repercussions did not affect only Russia or Siberia, but the outlying districts—then we can realize that something might happen if they thought for one minute they could defeat us.

Mr. President, I desire to speak on another subject.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

## INSURANCE AGAINST ATOMIC HAZARDS

Mr. WILEY. Mr. President, I have prepared a statement in relation to insurance against atomic hazards. I am very much concerned about that matter. We have been taking terrific risks by building atomic-energy plants. The danger is so grave that we should give regard to it. I, for one, feel that in this country, which has the waterpower, as well as ample oil, gas, and coal resources, we should not endanger ourselves from within by building these plants which, if they fail, may destroy a whole community. This is a very serious matter.

Mr. President, the Nation grimly notes the results from the Operation Alert civil-defense test exercise which began yesterday.

All of us are provided food for thought by the report of the almost incalculable loss of lives from nuclear attack.

In dealing with atomic energy, however, even in time of peace, we are dealing with a great many unknown factors.

It is small wonder, therefore, that a tremendous challenge confronts the American insurance industry to apply its best thinking and resources to help come up with the answer for financial protection against peacetime atomic hazards.

Fortunately, this great industry is responding to this challenge.

I trust the Federal Government, as well, will respond to it by the enactment of necessary legislation which we, of the Senate, should soon take up.

In this connection, I noted recent newspaper reports of insurance meetings in connection with the 80th annual meeting of the American Bar Association.

One such session reported that the recent hurricane Audrey was the 83d catastrophe, since 1947, listed by the insurance industry as calling for payments of above $1 million.

Inevitably, there arises the question of what might happen if the worst came to the worst, and if an atomic reactor got out of control near a metropolitan area. Under such circumstances, the damage caused by hurricane Audrey might look very small, indeed, by comparison.

I am glad, therefore, that the Atomic Industrial Forum, the trade organization in the atomic-energy industry, has devoted considerable attention to this problem of financial protection against peacetime nuclear hazards.

I noted with interest, too, an article in the April 1957 issue of the George Washington Law Review, as written by Mr. Ralph E. Becker, of the Washington law firm of Brookhart, Becker & Dorsey, analyzing the report of the Atomic Industrial Forum.

I commend this thoughtful evaluation to wider readership on the part of the Congress and the public.

I send to the desk the text of the New York Times article of July 10 describing the insurance industry's role in connection with natural disasters. I append to it the article from the George Washington Law Review on protection against atomic hazards.

I ask unanimous consent that both of these items be printed in the body of the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the George Washington Law Review of April 1957]

COMMENT ON THE ATOMIC INDUSTRIAL FORUM REPORT ON FINANCIAL PROTECTION AGAINST ATOMIC HAZARDS

(By Ralph E. Becker)[1]

I. INTRODUCTION

Activity on the part of private industry to enter the atomic-energy field has been gathering momentum.[2] While points of view differ considerably as to whether the private progress can be called satisfactory,[3] it seems clear that one of the main inhibitors to faster private progress is the matter of third party liability in the event of a major disaster. That is, the insurance problem.[4]

When one considers the relative infancy of the atomic-energy industry, the lack of experience and difficulty of predicting extent of damage from an accident, it is somewhat astonishing to contemplate the imposing bulk of presumably well-informed commentary in this field.[5] As much as any other factor, this suggests the importance of the problem. But the very proliferation of contributions, while many of them individually

[1] Member of the firm of Brookhart, Becker & Dorsey, Washington, D. C.; actively engaged in the practice of law in New York (since 1929) and the District of Columbia (since 1949). Member of the bars of the State of New York, the District of Columbia, and the U. S. Supreme Court.

[2] See, e. g., CCH Atomic Energy L. Rep., pars. 458, 459, 475 (1956); AEC 21st Semiannual Report X–XII, XIV–XVI; Life, Feb. 18, 1957, pp. 23–31; and appendix of Congressman COLE'S article supra for table showing status of atomic reactor development.

[3] See speech of Chairman Strauss, AEC press release, December 11, 1956, at p. 6 ("bright prospects for nuclear power development in the United States during the next 5 or 6 years"). And contra, statement of Commissioner Murray, AEC press release, June 18, 1956, at p. 1 ("The present prospect of getting any substantial quantity of industrial power in this country by 1960 is very gloomy"); cf. address of Senator ANDERSON before AFL–CIO Conference on Atomic Radiation Hazards, February 27, 1957, which concludes that we are not progressing fast enough.

[4] A General Electric official told Congress he would recommend stopping work on the country's biggest atomic powerplant unless Government catastrophe insurance is provided (Washington Star, Mar. 27, 1957, at A–31).

[5] E. g., Report of the Panel on the Impact of the Peaceful Uses of Atomic Energy, Joint Committee on Atomic Energy, 84th Cong., 2d sess. (1956); Palfrey, Atomic Energy: A New Experiment in Government Industry Relations, 56 Columbia Law Review 367 (1956); Newman, The Atomic Energy Industry: An Experiment in Hybridization, 60 Yale Law Journal 1263 (1951); Becker & Huard, Tort Liability and the Atomic Energy Industry, 44 Georgia Law Journal 58 (1955); Symposium on Atomic Power Development, 21 Law and Contemporary Problems 1, et seq. (1956); Symposium on the Legal Aspects of an Atomic Era, 34 Texas Law Review 799 (1956); Cable & Early, Torts and the Atom: The Problem of Insurance, 45 Kentucky Law Journal 3 (1956); Saylor, Basic Dangers in the "A" Power Program, 57 Pub. Util. Fort. 73 (1956); Austin, Enumeration and Verification of Atomic Weapons, 21 Department of State Bulletin 624 (1949); Pollard, Effect of Atomic Energy on Underwriting, 17 Insurance Counsel Journal, 436 (1950); Life, Feb. 18, 1957, pp. 23–31; Life, Oct. 8, 1956, pp. 176–190.

valuable, has sometimes served to obscure the overall problem facing the investor, the industrialist, the insurance man, and the legal practitioner.

Fortunately, we have available today the product of an earnest attempt to take a comprehensive, objective look at all facets of the risk inherent in atomic-energy activities. It is entitled "Financial Protection Against Atomic Hazards," and was prepared by the legislative drafting research fund of Columbia University at the request of the Atomic Industrial Forum, Inc.[6] Inasmuch as this report is definitive, scholarly, and the result of thorough study and preparation by responsible persons, it is a must for all who are interested in the commercial utilization of nuclear energy and its byproducts.

The report devotes considerable attention to the kinds of injuries which may be anticipated from radiation exposure, the extent of damage which can reasonably be expected from a catastrophic accident and the impact of the hazard on various groups.[7] All of these matters have been the subject of specialized studies. An outstanding contribution of the report is that it has culled the best ideas from these studies and brought them together in concentrated, but readable form. For those who insist on documentation, the report is copiously annotated to the original materials (359 footnotes).

II. THE HAZARDS

Scientists tell us flatly that all radiation is harmful to humans, at least in the sense that exposure to radiation shortens life and causes gentic damage.[8] In this light, it is perhaps unfortunate that the report sometimes speaks of minor reactor accidents. Of course, what is meant is relatively minor, but even incidents deemed minor by the report may be tragic compared to old-fashioned injuries. And radiation injury of even one person may mean resulting injury to hundreds of his descendants.[9]

The report attributes varying degrees of hazard to several categories of activities.[10] The mining of raw materials and the industrial use of radioisotopes are described as involving the least hazard. The most hazardous activities are listed as (a) reactor operation, (b) fuel-element fabrication, (c) fuel-element reprocessing, and (d) waste disposal. The latter hazard, says the report, will in the long run probably be as great as the hazard from all other sources.[11]

Thus far, no significant amounts of accumulated radioactive wastes have been disposed, but rather have been retained.[12] High-level wastes, usually in the form of liquid residue, have, up to the present, been stored in corrosion-resistant underground tanks. This can only be a temporary expedient, for it is certainly not a permanent solution. High-level wastes frequently contain radioactive substances having a fantastically long half-life. Tanks and other containers have a way of cracking, leaking and eventually breaking up. The eternal container has yet to be made, and even if it were, external causes, such as earthquake, might cause a rupture and consequent contamination of surrounding soil and waters. Damages from such accidents could rise into astronomical dollar amounts.

No one has yet produced an adequate evaluation of the hazard to our population which can reasonably be anticipated from all radiation sources. Various studies have been made of the injurious potential of a runaway reactor. This is only one of many dangerous sources—and perhaps not the most dangerous. In any event, the cumulative injury potential of billions of tons of high-level wastes, of thousands of devices employing radioisotopes, of tons of radioactive nuclear fuel, of the mining and refining of tens of thousands of tons of raw materials, all combine to produce a greater threat to our national safety than the catastropic burn-up of any single reactor. No real effort has been made to assess this threat in the light of advantages to be expected from a wholesale dedication to nuclear power production and its allied industries. Yet this is the study which must be made.

III. IMPACT OF THE HAZARDS

The impact of the hazards is examined with respect to five separate groups: industry, the public, private insurers, the National Government, and the State governments. The analysis of the impact on industry is principally concerned with tort liability problems, and no new ideas are developed or suggested. Public impact is largely the same material turned inside out—the concern here being with the right of the public to recover in tort against the industry. In both instances the scope of discussion is broad, but, again, the number of problems in the area precludes serious consideration of any particular one. The annotations, however, are magnificent.

The impact on private insurers brings to light some less hackneyed material in the description of the three syndicates which have been formed to provide physical damage and liability coverage to the industry.[13]

The position of the National Government in the atomic-energy industry, its responsibilities to the public, the statutory licensing scheme, and the overall role of the Government are briefly discussed.[14] Three short columns are devoted to the impact on State governments, which is not unexpected, since problems on that area are as yet largely unformed.[15]

IV. THE RECOMMENDATIONS

The report's first and most urgent recommendation is for an integrated, purposeful program sponsored by the National Government.[16] It is the considered conclusion of the report that such a program is a necessary condition precedent to industrial development. Without governmental leadership, is the thesis, industrial development will fail for lack of direction.

In general, it is suggested that any program determined upon should contemplate machinery which is at once "simple, pragmatic, and responsive to changing needs." This is based on the impossibility of estimating the nature or quantity of the problems to be dealt with and because the Federal Government's primary role will be to protect against loss by catastrophe rather than the normal and expected minor losses. The best vehicle for assuring adequate compensation to the victims of a catastrophic loss is said to be by governmental participation in payment to those injured. The report discusses the two most common proposals for such Government aid, viz, reinsurance and indemnity.[17] Another proposal, statutory limitation of liability, is also examined.[18]

*A. Limited liability*

The report discusses limitation of liability rather summarily. Limitation of liability, of course, refers to protection of the entrepreneur by cutting off his responsibility for his tortious acts at some arbitrary point, e. g., where private insurance ceases to be available. Such a rule is obviously in derogation of the common law and would have to be based on statutory authority. In order to be effective, such statutory authority would probably have to come in the form of a Federal enactment.

As the report correctly points out, no specific constitutional authority exists to justify such a statute, and serious questions of Federal-State relationships would be raised. The constitutionality of such a measure would be in grave doubt because of its insecure foundation. In addition, statutory limitations upon liability are socially objectionable because the public is thereby denied full protection.

Statutory limitation of liability also raises the specter of the due process of law clause.[19] While there are precedents for such limitations,[20] it would seem that, in these instances, the limitation is applicable to a particular

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[6] Atomic Industrial Forum, Inc., Financial Protection Against Atomic Hazards, a Forum Report, January 1957, hereinafter referred to simply as the report.

This report received its initial impetus at a meeting of representatives of the Atomic Industrial Forum, the insurance industry, and the Atomic Energy Commission in August 1954. From this meeting emerged a new forum committee on insurance, and thence a subcommittee on insurance legal problems. The latter body, after reviewing all the existing material, concluded that if prompt and effective measures were to be taken in this area, a careful and objective legal study was urgently needed. Report at IV. The facilities of Columbia University, particularly its legislative drafting research fund, were made available for this project. The able authors and directors of this study, Arthur W. Murphy, Clyde L. Ball, and Bud H. Gibbs, ranged far afield in selecting the best qualified authorities for every phase of the problem discussed. Within Columbia University itself, assistance was sought and received from professors of medicine, economics, law, engineering, physics, and other fields. Apart from the university, atomic industrialists, insurance executives, and representatives of the legislative and executive branches of the National Government were consulted. The quality and scope of the report reflects the combined talents and skills brought to bear upon its production.

[7] Report at 16–42.

[8] Glasstone, Sourcebook on Atomic Energy 500–504, 523 (1950); Washington Post and Times Herald, June 13, 1956, p. 1 (comment on the report of more than 100 scientists to the National Academy of Sciences concerning radiation hazards); report, supra, note 5 at 17.

[9] It was recently suggested (after research with mice) that radiation may cause an inherited shortening of the normal life span over many generations. If what was true of mice held true of humans, each roentgen received by the father would mean a 20-day shortening of the descendant's life. Report given to genetics symposium, National Academy of Sciences, Washington, D. C., April 22, 1957.

[10] Report at 11–16.

[11] Id. at 13. The report notes that most attention thus far has been focused on the possibility of a catastrophic reactor accident, id. at 14, but since there would be no atomic bomb-like explosion, it suggests that "most and hopefully all reactor accidents will be minor." Id. at 15. In this connection, it is noted that a somewhat revolutionary design for a "safe" reactor was described to the American Physical Society, Washington, D. C., April 27, 1957. This reactor would be incapable of "running away." See Washington Star, April 27, 1957 at A–7.

[12] Stason, Estep & Pierce, Atomic Energy Technology for Lawyers 45–46 (1956).

[13] Discussed in section IV D. infra; report at 33–36.

[14] Report at 37–41; see particularly Marks & Trowbridge, Framework for Atomic Industry (1955); and, generally, the articles cited in note 4 supra.

[15] A very good compilation of the State laws and regulations which may affect the atomic-energy industry may be found in Stason, Estep & Pierce, note 11 supra.

[16] Report at 43.

[17] Id., at 45.

[18] Ibid.

[19] United States constitutional amendments V, XIV.

[20] Report at 45.

group and that a similar limitation would not be constitutional if applied to all persons injured, no matter how situate, without regard to the entity responsible for the action or to the relationship between the injured and the party responsible.[21]

*B. Government reinsurance*

If protection of the public is an important element in establishing a private atomic-energy industry, Government reinsurance or indemnity seems more appropriate than any scheme to limit liability. The principal defect of reinsurance is that the amount of coverage, since to some extent dependent on the business judgment of the operator, might be inadequate. There is also the very practical objection that private insurers—on whose cooperation the reinsurance plan would depend—have already indicated that they are not interested.[22] Of course, the operator could be forced to purchase adequate insurance as a condition of doing business, but this has some unpleasant connotations and should be considered only as a last resort. Reinsurance would also multiply the difficulties presented by the fact that there is no way, at least at present, to establish an actuarial basis for the premiums.

To all these objections, we can add that Government insurance, voluntary or compulsory, would require the establishment of a new and separate Government agency for its administration. The system would require actuarial calculations, complex rate machinery, premium schedules, and a fund out of which to pay losses. The report suggests that the improbability of a major catastrophe renders impractical the establishment of such an elaborate structure. In the interest of governmental economy, it is obvious that the simpler indemnity system would be considerably more economical. This basic objection was recognized by the Joint Congressional Committee on Atomic Energy, and particularly in the Anderson bill,[23] which calls for indemnity rather than reinsurance.

*C. Government indemnity*

The third approach discussed by the report is a program of Government indemnity.[24] This approach, as was indicated, has been espoused by the Joint Congressional Committee on Atomic Energy. Senator ANDERSON of New Mexico has introduced legislation which would provide an amount of indemnity up to $500 million for each nuclear incident.[25] Such indemnity would only be invoked should the incident result in compensable damage above the amount of private insurance in force for that particular activity. Indemnity holds the most appeal for the authors of the report and inasmuch as their recommendations are similar to the Anderson bill, the two will be discussed together.

Indemnity ceiling: The Anderson bill contemplates a limit of governmental indemnity of $500 million for each incident. The report criticizes the imposition of any limit inasmuch as a limit is not consistent with the interest of public protection, and is arbitrary, since the estimate of possible damage is at best pure speculation.[26] Actually, it should be noted that more than mere guesswork has entered into the estimates of extent of damage; the figure of $500 million is a median of the calculations of many experts.[27] Furthermore, there is serious doubt whether such a limit is, in fact, inconsistent with the avowed public policy of compensating the public. It is at least a compromise between that aim and the advisability of not risking payments so large as to disrupt the national economy.

The proposed legislation provides that should an accident occur and damage exceed allowed compensation, Congress would consider additional appropriation, as needed, to make whole all who are injured. The $500 million limit seems adequate to stimulate uninhibited private participation in atomic energy, and the social consciousness of the Federal Government has progressed to the point where we can rest assured that all just claims would be paid unless other considerations, presently unpredictable, were overriding.

Indemnity floor: As the report says, the Government indemnity "does not cover liability from the ground up."[28] This raises one of the thorniest questions, viz, just where should indemnity commence? The report points to the very real problem of the small reactor operator who, in order to meet the requirements of financial responsibility, would have to acquire extensive insurance at rates which could well render his overall operation economically unfeasible. The report correctly recommends that the Commission be given wide discretion in setting the limit of financial responsibility required, in order that the primary purpose of developing atomic power by private means may not be subjugated to an unrealistic and exaggerated solicitude for the public safety.

Financial responsibility: Any Atomic Energy Commission license applicant desiring governmental indemnity will have to prove financial responsibility up to the point at which the indemnity is to take effect. The Anderson bill does not make mandatory the purchase of insurance, but would seem to contemplate that the operator may be a self-insurer if it can prove the availability of corporate funds to pay damages. The Anderson bill gives the AEC wide latitude in determining the form which proof of financial responsibility is to take.[29]

The report points to a particularly serious problem in this regard. Should the Commission require proof of financial responsibility from all licensees? It seems obvious that such proof should be required from any activity involving substantial amounts of radioactivity, but the Anderson bill does not extend to all such activities. While mandatory that the AEC require proof of financial responsibility in the case of licenses for production and utilization facilities, it is only discretionary in the case of licenses for the possession of special nuclear material, source material and byproduct material. This seems insufficient, since it might not cover dangerous activities such as fuel fabrication.[30]

Not only should financial responsibility be required wherever there is substantial radioactivity, but the law should also provide a test based on the presence of fissionable material. This test would be premised on the amount of fissionable material (U–235, U–233, Pu–239) which is present as fuel in any particular reactor. All power reactors will contain substantial amounts of fissionable material which are poisonous and capable of producing great quantities of highly radioactive fission fragments, although radioactivity may not be a great danger from the fuel itself.[31] Similar considerations apply to all nuclear reactors whether they are power producers or not. Even a research reactor may be a serious hazard.[32] Perhaps the inclusion of licenses for special nuclear material in the Anderson bill is intended to cover the situation just described. If so, it seems unnecessarily ambiguous.

Liability of third parties: The report finds fault with the provisions of the Anderson bill regarding the liability of suppliers or third parties, who might be held liable. The bill apparently requires that the financial responsibility of the operator extend to the liability of any person for damages from the nuclear incident. On the other hand, private insurance apparently will cover the liability only of the operator and his suppliers. What about the liability of independent contractors, repairmen, etc.? This seems to leave a gap between private insurance coverage and Government indemnity coverage. As the report points out,[33] it may be that in this case Government indemnity would cover the liability of such persons, but it is not clear, and the bill, therefore, should be clarified.

Fees: Both the report and the Anderson bill recommend a moderate charge for Government indemnity.[34] The Anderson bill sets a fee of $30 per year per megawatt of thermal energy capacity for commercial licensees, and such nominal charges as it deems appropriate for other licensees. The report approves the propriety of these charges so long as they represent nominal payments to defray the cost of administration of the program, and are not regarded as insurance premiums.

Administration: Since the role of the Federal Government would be that of an indemnifier, the mechanics of administration should be minimal. Aside from payment of a fee to the Treasury and periodic reports confirming financial responsibility, little need be done. However, should a catastrophe occur, the problem of administration will be fraught with difficulty. The first question will concern at what point and to what extent the Government will be called upon to settle claims. Following the accident, many months may pass before an accurate estimate can be made of the adequacy of private insurance claims to compensate the injured. Considering the length of time now required to complete litigation in our courts, this period of uncertainty as to the extent of total damages could well exceed the statute of limitations period in which one must file a claim. This eventuality persuades the authors of the report to recommend that the Government be authorized to settle claims prior to an adjudication of legal liability. Attorneys conversant with Government litigation are well aware of the reluctance on behalf of Government employees to commit the United States in any case in which there is the slightest doubt as to the liability of the sovereign. Therefore, if settlement prior to

[21] It is noted that the West German atomic energy law limits the liability for each accident and the recovery of anyone who sues under the statute. See report at 45.

[22] Id. at 46.

[23] Id. at 63.

[24] For a similar view, see statement of Ralph E. Becker, secretary-treasurer, Federation of Insurance Counsel, hearings before the Joint Committee on Atomic Energy, 84th Cong., 2d sess. 234 (1956).

[25] Section 4 (c), S. 4112, 84th Cong., 2d sess. (1956). Senator ANDERSON has reintroduced this bill with amendments. S. 715, 85th Cong., 1st sess. (1957).

[26] Report at 52.

[27] But see AEC, Theoretical Possibilities and Consequences of Major Accidents in Large Nuclear Powerplants 32 (Mar. 1957), which estimates property damage alone from a single nuclear incident may run as high as $7 billion.

[28] Id. at 49.

[29] Section 4 (a), S. 4112, note 24 supra.

[30] Report at 49 n. 298. It is noted that liability may be great even in a minor accident involving byproducts. See, e. g., the two N. W. Kellogg Co. incidents, involving radioactive cobalt and iridium, where property was contaminated, and workmen sustained injuries. Washington Star, May 4, 1957, p. A–3, col. 1.

[31] It has been reported, for instance, that the Power Reactor Development Corp. fast breeder reactor to be installed near Detroit, is to be fueled with 485 kilograms (over 1,000 pounds) of uranium 238 enriched in uranium 235.

[32] Report at 19 n. 126.

[33] Id. at 50 nn. 301, 302.

[34] Id. at 52.

adjudication is the answer, authority should be specifically granted to the Commission by Congress. The report correctly states that throughout this period of settlement of damage claims there must, of necessity, be the closest type of cooperation between the Government and private insurers.

*D. Primary insurance*

Before concluding, it would be appropriate to discuss the section of the report dealing with the developments within the insurance industry, looking toward insuring operators up to the point at which Government indemnity commences. From the beginning, it was realized that a nuclear incident could result in injury for which no single company or group of companies could assume the risk. But to make it possible to assume at least some significant part of the risk, a number of private insurers have pooled their talents and resources into syndicates in order to spread the risk as widely as possible. Three different syndicates have been formed to provide physical damage and liability coverage to the atomic energy industry. One of the associations is known as the Nuclear Energy Property Insurance Association (NEPIA) and has a membership of 177 companies, with a minimum participation by any one company set at $25,000. The members' liability is several and not joint. The amount of coverage offered by the association to any one installation will be about $50 million and the coverage is designed to offer protection against damage to property.[35] This group plans to offer insurance with a deductible scaled to the total amounts of insurance purchased and will cover property damage from all hazards arising out of an atomic installation. To the extent possible, the association will insure all property of the operator located near the reactor itself.

Another syndicate is the Nuclear Energy Liability Insurance Association (NELIA), which has a present membership of 110 companies. This association will offer insurance protection against "radiation, liability, hazards arising out of or pertaining to (a) nuclear reactor installations designed for experimental, testing, or power purposes and (b) for operations or facilities related or incident thereto. * * *" Coverage is to be offered in the amount of about $50 million per installation. In this plan, liability coverage will only be afforded for radiation hazards, thus necessitating purchase of a conventional liability policy as well. Liability of the supplier to the public will also be covered, but the supplier will not be insured against damage to the installation itself. The report suggests that such liability could be avoided by the operator waiving any rights against the supplier for damage to the installation.

The third syndicate is the Mutual Atomic Energy Pool (MAEP), which has a membership of 105 companies whose liability is several and not joint, and each company may voluntarily decide whether to reinsure any specific risk with the pool. The amount of coverage, which is contemplated at approximately $11 million, but this amount may well be increased by foreign reinsurance. The principal aim of this association is to insure against "third party bodily injury, third party property damage, and direct physical damage arising from radiation and radioactive contamination resulting from the operation of atomic reactors or from the handling, fabrication, processing, or reprocessing of fuel or products incidental to such operation and * * * other physical damage hazards incidental to such operation. * * *" In order best to meet the needs of the atomic industry, the three syndicates have arranged to coordinate their activities so that "insofar as the buyer is concerned the effect should be practically the same as a single pool." According to reports subsequent to the preparation of this study, the three insurance syndicates may well provide coverage up to $60 million for any one atomic installation.

Although the general outline of the contracts to be issued by the syndicates have been fairly clearly defined, there still remains the question of determining the rates. Until this question is settled, the extent to which industry can subscribe to private insurance cannot properly be evaluated. The two main obstacles to the determination of rates are the lack of experience and the possibility of facing a major loss in the early stages of the program.

Presently the syndicates envisage a graduated decrease in rates in proportion to the coverage and the premium income, but no firm commitment as to the rate scale has been made. Until the rates are settled, Congress cannot estimate the point at which Government indemnity must be applied. Undoubtedly, this unknown factor has caused great legislative concern in the consideration of the Anderson bill. Perhaps the insurance industry could aid Congress and the atomic industry in this dilemma by agreeing to frequent, periodic reviews, as more experience with the risks incurred unfolds. Such an assurance might help allay the concern with which the atomic industry and Congress view the early years of insurance coverage available for atomic development.[36]

V. CONCLUDING OBSERVATIONS

Of the additional or alternative programs suggested by the report, the most provocative is the proposal for a uniform State law covering radiation injuries. In recent years American jurisprudence has come to accept the value of uniform laws in certain fields, that is, the Uniform Sales Act and the Uniform Negotiable Instruments Act.

Escaping radiation can affect persons or property located within a very large area and, as noted earlier, the injuries therefrom are sometimes not evident for many years. These factors give rise to legal problems in two important fields; statutes of limitations and conflict of laws. In order to insure like treatment for all injured and to allow an appropriate forum to all, the only solution would seem to be the adoption of a uniform State law.

The collateral problem of proving the radiation injury whatever the appropriate forum may be is given little consideration in the report. This matter, of course, depends on the state of medical science at the time proof is sought. At the present time, a great deal of medical research is underway, but few useful conclusions have been published. It is most desirable that lawyers consider the results of this research, and that medical and legal problems be related before litigation begins. In the same way, lawyers and scientists must quickly realize the need of cooperation for mutual understanding of the law and the technology in industrial atomic energy. Thus far, lawyers and scientists have seemed indifferent to the need for exchanging information. If this practice continues, legislation, administration, and adjudication in matters concerning the impact of atomic energy on State and national law will suffer seriously. There are already signs that legislation, for instance, might be improved if the draftsmen were better grounded in atomic energy technology.

These and many other problems still remain unsolved. However, the report is an extremely valuable contribution to the literature on atomic energy and the law. The authors accomplished the purpose they had set for themselves and our principal criticism is that their self-imposed limitations were too restrictive. We hope that this paper may stimulate additional investigation and research.

[35] According to a recent statement, this will eventually reach $60 million when augmented by foreign reinsurance. Washington Star, May 9, 1957, p. C–8, col. 5.

[36] See generally id. at 33–37.

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[From the New York Times of July 10, 1957]

INSURANCE'S ROLE IN DISASTER CITED—83 CATASTROPHIES LISTED IN $1 MILLION PLUS CATEGORY SINCE 1947, LAWYERS HEAR

(By Peter Kihss)

Insurance was depicted yesterday as the major factor in rebuilding communities stricken by disaster. A lawyers' session heard that last month's hurricane Audrey was the 83d catastrophe since 1947 listed by the insurance industry as calling for payments above $1 million.

The highest recent insurance cost was the total of nearly $200 million for hurricanes Carol, Edna, and Hazel, which lashed the Northeast in 1954. The estimate was given to the American Bar Association section on insurance, negligence, and compensation law at the Plaza Hotel.

Philip M. Winchester, vice president of Allied Adjusters, Inc., reported that 1,300,000 claims had been filed in the 1954 cases. The insurance loss, he said, exceeded even that for the Northeast floods of 1955.

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Mr. Winchester said that since 1943 the National Board of Fire Underwriters had evolved a teamwork plan for catastrophes under which a supervisory office is set up for claims and relations with the community involved.

In the Northeast windstorm of November 25, 1950, he said, 3,000 adjusters and clerks from all sections were mobilized within a few weeks. An average adjuster processes 600 claims a year, he noted, but the storm created 1 million claims in 24 hours. The insurance loss exceeded $150 million, and processing costs were $22,500,000, he said.

Mr. Winchester recounted past insurance losses, including the 1871 Chicago fire, $175 million; the 1872 Boston fire, $75 million; the 1904 Baltimore fire, $30 million; and the 1906 San Francisco earthquake and fire, $220 million.

Recent million-dollar-plus catastrophes included the explosions in 1947 at Texas City, Tex.; and in 1950 at South Amboy, N. J.; and the 1953 tornadoes in Waco, Tex., and Worcester, Mass.

H. Clay Johnson, deputy United States manager and general counsel of the Royal-Globe Insurance Group, said Congress still "holds the key" on nuclear-energy insurance. This, he asserted, involves "liability far beyond that ever previously imposed."

Mr. Johnson said insurance syndicates had been formed with a capacity of nearly $60 million for each atomic installation for damage to third parties and $35 million an installation for the owners' own property damage. A House-approved bill would authorize Federal supplementary contracts for up to $500 million damage to third parties.

George I. Whitehead, Jr., director of claims of the United States aircraft insurance group, defended the 1929 Warsaw Convention, which limits the liability in accidents for United States and other international air carriers.

The convention, Mr. Whitehead stressed, places primary responsibility for injury on the airline, whereas in domestic cases a plaintiff must prove negligence.

The insurance section chose Stanley C. Morris of Charleston, W. Va., chairman-elect. The present chairman-elect, L. J. Carey of Detroit, will succeed H. Beale Rollins of Baltimore as chairman after current New York and London sessions.

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## CORN WITH 82-PERCENT AMYLOSE STARCH

Mr. CURTIS. Mr. President, many of us have been dissatisfied with the agricultural program of the past 25 years.

It is a costly program with a negative approach, and with restrictions. We have looked forward to the day when the American farmer could do what every other American businessman can do—use his full plant and expand his production.

This hope can be fulfilled with a greater use of agricultural products in industry. We were greatly cheered to learn that scientists at the University of Missouri have been able to develop a species of corn that is 82-percent amylose starch. This improvement promises to develop a field where millions of bushels of corn will be used.

Missouri scientist M. S. Zuber says:

This is the first big break we've had in a long time. We've been stymied in the 70-percent range.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on this development from the recent issue of the Farm Journal, and also an article appearing in the Nebraska Farmer, in the Washington letter of Fred Bailey, both pertaining to the subject of industrial uses for farm products.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Farm Journal of April 1957]

GROW CORN FOR PLASTICS?

You may someday be growing corn for the plastics and fiber industry. Scientists at the University of Missouri have come up with corn that is 82-percent amylose starch—well within the 80-percent to 90-percent range that chemists say could put 40 to 100 million bushels into plastics and fiber-making.

"This is the first big break we've had in a long time," says Missouri scientist M. S. Zuber. "We've been stymied in the 70-percent range."

Here's how the scientists went about breaking the 80-percent barrier:

Most present-day hybrids are 25-percent to 27-percent amylose, with a strong genetic link between high amylose and low starch. But Purdue University scientists H. H. Kramer and R. L. Whistler have recently been able to break that link, and last year, they grew corn that was 77-percent amylose.

Zuber and C. O. Grogan crossed the Purdue corn with the Missouri-Kansas corn they've been working with since 1950 and grew the cross in Florida last winter. This spring they harvested the 82-percent amylose corn.

"Biggest possibilities for high amylose starch probably are in film and fiber," says scientist F. R. Senti at the USDA's Peoria Ill., laboratory. "We haven't had enough of the starch yet to run a lot of tests, but amylose makes a dandy packaging film, for example.

"The film is like cellophane, and there may be special films for such uses as sausage coatings that you could eat when the sausage is cooked.

"As a fiber, high amylose starch could be used as part of the pulp in papermaking, and would have a huge market potential," says Senti. "About 800 million pounds of starch are now used each year just as coatings, adhesives and sizing in paper products."

High-amylose corn and its markets aren't ready to go yet. The scientists still have a lot of work to do, both in corn breeding and in research with high-amylose starch.

For example, the scientists have been shooting at such a distant target in 80-percent amylose that they've had to disregard almost everything else, including yield. Now they'll have to work on yields and other factors.

One thing is almost certain: You'll be hearing a lot more about high-amylose-starch corn, now that we're over the 80-percent hump.

"This could be the first recommendation from the President's Commission on Increased Use of Agricultural Products (Farm Journal, May 1957) to get into gear," says corn breeder Robert P. Bear, Decatur, Ill., who has been working with high amylose corn since 1948.

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[From the Nebraska Farmer]

(By Fred Bailey)

Campaign to find new and expanded industrial outlets for farm products has had another shot in the arm. It came with introduction in Congress the other day of bills to put into effect recommendations of the President's Commission on Increased Industrial Uses of Agricultural Products.

Senate bill is S. 2306, introduced by Senator CURTIS of Nebraska; House bill is H. R. 8186, by Representative ANDRESEN, of Minnesota.

The legislation has strong backing from members of both parties. Mr. CURTIS' bill, for example, is being sponsored by 30 other Senators.

Said Senator MUNDT, of South Dakota, "I am perfectly convinced that if we devote the proper amount of attention, money, thought, effort, and energy we can solve our farm surpluses by the development of engineering, chemistry, and the associated sciences. * * * I hope both Houses will take action at this session to enact this 'crash' program for the permanent solution of the farm problem on an economic basis of reality."

The President's Commission, whose recommendations the legislation would put into effect, called for at least a threefold increase in funds for industrial utilization research. Financing would provide appropriations in the first year of up to 5 percent of customs receipts; for the second year, 10 percent; and thereafter, 15 percent.

Such expenditures could run to $150 million per year.

The bills would set up a special independent agency, the Agricultural Research and Industrial Board, to carry out the program.

Objective of the legislation is to implement this 7-point program of the President's Commission: (1) Increase participation by public and private institutions in an effective research network; (2) expand basic research on use of farm products; (3) increase use of grants, fellowships, and scholarships to increase the Nation's supply of scientists; (4) place more emphasis on government-industry sharing of research costs; (5) expand research and development work with new crops; (6) make wider use of commercial-scale trials of new products; (7) offer economic incentives to growers and processors to bridge the gap between research and established industrial uses of crops.

Chairman of the Commission was J. Leroy Welsh, of Omaha, Nebr.; its executive director, Wheeler McMillan, of Philadelphia.

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## FOREIGN POLICY

Mr. COOPER. Mr. President, I have listened, as I always do, with great interest to the speech of the distinguished Senator from Montana [Mr. MANSFIELD]. I join with other Senators in commending those portions of it which call for continuing and unremitting efforts to bring about, if possible, a resolution of the impasse between the democratic and the Communist worlds.

I am sure the Senator knows that I appreciate, as I always have, the constructive suggestions he has made. Yet, I must say that I could not help but realize that a thread of criticism of the administration of President Eisenhower ran through his speech.

I do not say that everything done by this administration in the field of foreign policy has been perfect. As the Senator has said, undoubtedly changes could be made which would make our foreign policy more effective. It may be true that in certain areas of the world we may be placing more reliance upon military alliances than is justified. We ought always to examine whether the extent of military aid may provoke rather than resolve tensions.

But the Senator has suggested that this administration's policy is chiefly one of reaction to the action of the Soviet Union. During this session that has seemed always to be the basis of criticism of the administration.

I do not see how it is possible for this, or any administration to fail to take into account the purpose and action of the Soviet Union. I do not rely on comparisons as an answer to the Senator's thesis, but it is a fact that the policies of prior administrations, whether military alliances, or the Marshall plan, or military action in Korea, were reactions to Soviet action and policy. We cannot fail to take it into account.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. MANSFIELD. That was one of the points I was bringing out in the course of my speech. It applied not only to the present administration, but to previous administrations as well. I dealt with the tendency to base our foreign policy upon fear of what the Soviets might do, rather than on the basis of faith in ourselves and what is right and just.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. JOHNSON of Texas. I remind the distinguished and learned Senator from Kentucky that many of us pointed out those errors at the time, under Democratic administrations.

Mr. COOPER. I do not call them errors. To the contrary, I believe the Marshall plan, the program of collective security, and on action in Korea were right and just, but they were reactions to Soviet policy.

Mr. JOHNSON of Texas. The Senator did not understand, did he, that I was calling those specific things errors?

Mr. COOPER. I did not so understand the Senator's statement.

Mr. JOHNSON of Texas. I did point out that I thought too often we failed to take the initiative, and acted only in response to Soviet actions.

Mr. COOPER. I am responding to the suggestion that the Eisenhower administration has been lacking in imagination and initiative. I would prefer that some member of the Foreign Relations Committee would speak on this subject. I note the presence in the Chamber of the distinguished Senator from Vermont [Mr. AIKEN]. The Senator from Wisconsin [Mr. WILEY] has already spoken.

I should like to point out some of the initiatives taken by this administration.

The distinguished Senator will remember that there had been no meeting between the President of the United States, the leaders of the Soviet Union, and our wartime allies, since the days shortly after the close of World War II. President Eisenhower agreed to meet the leaders of the Soviet Union. In 1955 he went to Geneva, and met the leaders of the Soviet Union, in an effort to find a way toward a settlement of the difficult issues that have upset the world since World War II. It was an initiative of the President, and as a result of that meeting several courses of action were set in motion, upon which our country is still working in its effort for peace. I will name some of the courses of action which grew out of that initiative.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. MANSFIELD. Can the Senator point out the particular portion of my speech to which he refers?

Mr. COOPER. I gathered, from the tenor of the Senator's speech, that he was critical of this administration, because he thought it had not left old courses, that it adhered to policies based upon fear of the Soviet Union, and that its policies did not represent new initiative.

Mr. MANSFIELD. The Senator is perhaps referring back to the colloquy of last month, on another speech on foreign policy.

I have tried to adopt a different approach this time. I certainly have given credit to the administration where credit has been due; but most important of all, I have given credit to the Congress, and particularly the Senate, for what it has contributed this year, as well as to individual Members who did so much to shake up the administration and get it going along certain new lines, certain new ideas, and certain new policies. That was the contribution which the Senate made.

My speech was delivered with a deep sense of responsibility on my part. It was not designed to tear down the administration, and certainly it was not designed to create a strawman, which the Senator from Kentucky seems to be doing at the present time.

Mr. COOPER. I wish to make it clear, as I stated a few moments ago, that I appreciate the positive and affirmative approach the Senator has taken in the greater part of his speech.

I stated that I agreed with some of the things he said. But I went on to say that I could not help but detect in his speech a profound criticism of this administration. It was that it had not shown a willingness to break from the fears of the past and to pursue new courses of action.

I believe the record of this administration demonstrates it has shown initiative. I have suggested one example. It was willing to meet, for the first time since 1945, with the leaders of the Soviet Union.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. MANSFIELD. Where did the genesis for that particular meeting come from? It came from a Member of this body.

Mr. COOPER. I remember that the great former Senator George said in the Senate that the time for a meeting had come. That had been said many times before by others. I will not derogate from the influence of the speech of Senator George in bringing about the meeting. But different from the record of the past, President Eisenhower agreed to a meeting, there was a meeting and President Eisenhower went to that meeting. Growing out of the Geneva Conference certain courses of action were commenced, which still bear some hope.

I speak first of the agreement made at that meeting to consider means of disarmament. Disarmament meetings had been going on in the United Nations for a long time on the same theme but at the Geneva meeting it was agreed that a special committee should be established at London to discuss the new proposals which had been made at the Geneva Conference.

There President Eisenhower had taken the initiative with his "open skies" proposal, a preliminary step toward disarmament, and had also agreed to consider the British and Soviet suggestions that a limited inspection zone with control posts be established.

Mr. MANSFIELD. And I accord to him all the credit in the world for taking such a step.

Mr. COOPER. Since that time the meetings of the Disarmament Committee have continued in London. Recently the majority has questioned whether the administration is willing to take steps toward the suspension of nuclear tests. We have discussed that subject before, in the Senate. The administration has stated that it would be willing to suspend nuclear tests for a period of 10 months, if, associated with it, we could secure the agreement of the Soviets, to stop the production of fissionable material or nuclear weapons. That is certainly an initiative toward a first step in disarmament.

Mr. MANSFIELD. Does the Senator not agree that there is a point of possible compromise between the Soviet suggestion of a 3-year moratorium and Mr. Eisenhower's suggestion, through Mr. Stassen, of a 10-month moratorium? The door is not closed. I hope progress will be made. So far as it concerns the question of the President pushing this program, I give him all the credit possible.

Mr. COOPER. I am pointing out the initiatives that this administration has taken. The disarmament conferences are still going on, and I think more progress has been made than at any time since the close of World War II.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. SALTONSTALL. What the Senator from Kentucky is saying—and I hope I construe it correctly, because if I do, I agree with him—is that President Eisenhower and Secretary Dulles have exercised leadership and imagination, and have gone forward. That does not mean that they have not been willing to accept advice and suggestions from distinguished Members of the Senate, such as former Senator George, the Senator from Montana [Mr. MANSFIELD], the Senator from Texas [Mr. JOHNSON], the Senator from Kentucky [Mr. COOPER], and others.

The point I emphasize, and the point which I think the Senator from Kentucky is emphasizing, is that members of the administration have taken action. They have shown leadership. He emphasizes the fact that there is peace in the world today, and that members of the administration are going forward with various steps which they hope will lead to a more permanent peace.

Do I correctly construe the remarks of the Senator from Kentucky?

Mr. COOPER. The Senator is correct. What I am trying to do is to point out the specific things which the administration has done which show its effort to break out of the mold that has held the world since World War II.

Another example of intiative is its effort to break through the barriers between the Soviet Union and the satellite countries on the one hand, and the United States on the other.

The distinguished Senator from Montana will remember that at the same meeting at the Geneva Conference to which I have referred, one of the subjects discussed was the methods which could be used to break down social and communication barriers.

At that time the United States and our allies agreed upon exchanges of persons and exchanges of information with the Soviet Union, and some exchanges are taking place. But the Soviet Union insisted upon their limitation. I remember the fine proposal, recently made by the distinguished majority leader, calling for a full exchange of information. It brought to public attention and into focus again our faith and confidence in such exchanges. But I point out that at the Geneva Conference of 1955, this administration, the President and Secretary of State Dulles, agreed to such exchanges, to break down the barriers of suspicion and fear.

The distinguished Senator from Montana gave credit to the administration for being willing to face criticism in entering into arrangements with Poland for the sale of surplus commodities. It shows his breadth and generosity, which I have never questioned. It was the same with respect to Yugoslavia. Both of those decisions took courage, and they represented initiative.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. JOHNSON of Texas. I should also like to recall to the able Senator that at the time of the Geneva meeting, the majority leadership very strongly supported, by statement and acts, the program presented by our President and his spokesmen on that occasion.

Mr. COOPER. I do not call into question that fine support.

Mr. JOHNSON of Texas. I understand, but I should like to have that added to the RECORD, because I am not so sure that our views were shared by all Members.

Mr. COOPER. I am aware of the patriotism and fine attitude which the majority has taken in support of many of the efforts of the President and the Secretary of State. It is to their credit. What I am trying to do is to name specifically the new proposals, the new efforts which have been taken by the administration.

I shall make one more comment, and then close my remarks. The Senator from Montana devoted a part of his speech to the Mid-East situation.

In 1955 the Secretary of State, Mr. Dulles, made a proposal toward a solution of Mid-East problems. It concerned itself with the disposition of the refugees, the guarantee of boundaries, and the suggestion that the Arab countries and Israel enter into talks looking toward a settlement of their boundary lines. He made that effort during 1955. The fact that the effort was not successful because other countries did not cooperate cannot be laid at the door of the Secretary of State. It was not his fault. He made the effort, and long before the Suez crisis.

At the time of the invasion of Egypt the Soviet Union threatened to send volunteers to help the Egyptian Army and threatened Europe with rockets. The prompt response of the President at that time through the United Nations, that any intervention would be a matter of grave concern to the United States, and one which could call for action through the United Nations and by the United States, had its effect in dissuading the Soviet Union from any such action, if it had ever truly intended it.

I shall close with one statement about the administration, which I consider to be one of the most important contributions it has made in the field of foreign policy. It was one which did not find much support in Congress at the time, at least not outspoken support. When the question arose, after Great Britain and France had left Egypt, as to what course the United States would take with respect to Israel's withdrawal, the President of the United States took one of the most courageous positions any President of the United States has ever taken—in the face of large public opinion, and in the face of the sympathy which all of us have toward the small country of Israel, a democratic country, a friend of the United States and one which has suffered wrongs. The President of the United States and, yes, the Secretary of State, Mr. Dulles, said this country would rest its policy upon international law, the equal responsibility of nations, and upon morality, and it insisted that Israel, too, follow the course that Great Britain and France had followed.

I cannot remember any large support in Congress for the position of the President or the Secretary of State at that time. Yet, if there is one thing which has given strength to the United States in the world today it was that moral determination, based upon international law. It had its effect throughout the Middle East and Asia and Africa. It was a very positive step.

If we had followed any other course of action, I believe our influence in that area would have been greatly diminished, and no western country have been left with the ability or capacity or power to deal with the situation which had developed, and still remains.

I did not intend to speak at any length, and I will not.

I respect the views of the distinguished Senator from Montana and his great interest and concern in what we do as it shall affect the security and the future of our country. I applaud the constructive suggestions the Senator has made. However, in all fairness and justice I have tried to point out that this administration has taken new initiatives; that its action has advanced our security, and has afforded some opportunity, at least, to move toward a solution, if far distant, of our issues with the Soviet Union. Above all, our actions have been upon the firm grounds of international morality and international law. I cannot think of any greater step that this country could take.

Mr. THYE. Mr. President, I was present during most of the time when the Senator from Montana was delivering his excellent speech. I am a great admirer of the distinguished Senator from Montana. He is recognized as a student of foreign affairs. That is one reason why I am making reference to the statement that I have marked on page 39 of his prepared address. I made the marking on the page at the time the Senator was delivering his address. He stated:

> We need a point 4 program which encourages people-to-people technical exchange on a mutual basis.

Mr. President, I address my question to the distinguished Senator from Montana: We do have such a point 4 program, do we not?

Mr. MANSFIELD. Yes; but my reference to the point 4 program was as it deals with Afro-Asian nations. We do not have much of a point 4 program with those nations. We have in Asia, and to some extent in Latin America, but not with respect to the African area. There we have practically none at all. I am sure the Senator from Minnesota is an advocate of that program.

Mr. THYE. Definitely. Going on further, I read, also from page 39:

> We need strong exchange-of-persons programs, two-way exchanges.

I have always felt that we do have an exchange-of-persons program. I have met some people from Minnesota who are on their way to foreign countries under that program, and I have received communications from persons who are participating in such an exchange program.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. THYE. I am delighted to yield.

Mr. MANSFIELD. The point there is the same as with reference to the point 4 program. My comment dealt with Afro-Asian nations. Where we do have these programs underway, there is not the exchange that we should like to have, or to the extent that it is applicable to other parts of the world at the present time.

Mr. THYE. Mr. President, I feel strongly on the question of the exchange of teachers and students, and I feel strongly about the point 4 program. Technical assistance is needed in many backward countries, if we are to lift their standards to such a point that the youth of those countries will have hope in the future, and will not turn to the Soviets for help and encouragement. That is why I have supported foreign aid, technical assistance, and mutual security. I think they are our cheapest securities, and will provide for our future defense.

If we can acquaint the youth of those countries with the American way of life, such as by the exchange of teachers and students, then, once they become acquainted with our way of life, they will cease to listen to the propaganda of the Soviets when the Soviets refer to the terrible capitalistic system of the United States.

Likewise, when our friends from foreign countries see good, wholesome American youth, who are capable of turning to almost any type of manual labor, studying in foreign communities, they will be able to say, "The Americans are certainly persons who are different from what we have been led to believe by the vicious propaganda which the Soviets have constantly been spreading about the American people and the free enterprise system which exists in the United States."

It was that factor which disturbed me when I read and listened to the statement of the Senator from Montana, found on page 39 of his manuscript. It looked as if the United States did not have a point 4 or a student-exchange program. It looked as if we were operating in a vacuum, so far as concerned some of the ideas relative to helping to strengthen the economies of countries which do not have sufficient food or fiber to meet their needs. It seemed as though we were unaware of their lack of warm clothing to put on the backs of their people.

So far as concerns the newsmen who have been denied the right to enter the mainland of China, I have stated publicly in addresses that I believe we would gain more by having representatives of the press enter the mainland of China to get the facts from that country, thereby permitting us to know the facts, because able newspapermen are most capable of making conditions known to their readers. In this respect I have differed with the administration.

But I most definitely state that I believe President Eisenhower has given to this Nation and the world the kind of leadership which has progressed toward a lasting peace during the 5 years he has been in office. He has acted in such a commendable manner that I will always rise in defense of his administration's efforts to bring about peace. The President and his administration have pursued that objective and purpose in a most commendable manner.

Mr. SALTONSTALL. Mr. President, I listened with interest to the Senator from Montana, as I always do. I came here this morning particularly to hear him. I heard most of his speech; then I read the rest of it.

The Senator from Minnesota [Mr. THYE] and the Senator from Kentucky

[Mr. COOPER] have spoken on a more practical basis concerning what has been accomplished. My reaction to the Senator's speech was more concerned with his statement that the actions our Government has been taking have been based, perhaps, more on a fear of what the Soviets may do rather than faith in ourselves, and that what we must have is more faith in ourselves and in our way of life, and to go forward on that basis.

Mr. MANSFIELD. The Senator is correct; that is the basic assumption.

Mr. SALTONSTALL. I gleaned from the speech the thought that we were doing more things because we were afraid of what somebody else might do, instead of taking the initiative and acting on our own faith in ourselves and having confidence in our own judgment.

Mr. MANSFIELD. That is correct.

Mr. SALTONSTALL. In World War I and World War II I felt that this Nation would prevail because of the strength which comes from the faith imbedded in a country of free men. But I point out—and I think it is a fair statement—that actions based on faith in ourselves and in our way of life may also be stimulated by fear. There can be no criticism of fear in human beings if they take action and have confidence in the success of their actions because of their faith in themselves.

I believe President Eisenhower and Secretary Dulles are men of great faith. I have listened to those gentlemen in meetings in the Capitol and meetings in the White House, and I do not know when our country has been led by men of greater faith. I do not mean that as a statement comparing them with anyone else; but they have taken needed action. As the Senator from Kentucky [Mr. COOPER] and the Senator from Minnesota [Mr. THYE] have pointed out, the President and the Secretary of State have acted and have continued to lead us in actions which will support the peace which now prevails, tenuous as that peace may be. There are no Americans who are now fighting.

Many steps have been taken, as the Senator from Minnesota, the Senator from Kentucky, and the Senator from Montana, have pointed out. There are many more steps which can be taken.

I believe great imagination has been exercised in carrying forward our foreign policy. It has been based on faith, on confidence in ourselves, on our imagination, and on the positive and creative thoughts we have developed, which are to the best interests of ourselves and the rest of the world in an effort to secure a more abiding peace than we have ever seen. Again I say that I do not wish to make comparisons. I think we have witnessed many forward steps in the foreign policy of the United States. I have confidence in our leadership.

The leadership in the executive department today is not jealous of its own prerogatives. It is constantly willing to accept suggestions from thoughtful citizens and thoughtful statesmen, such as the Senator from Montana; suggestions which are well founded, and on which action can be taken. The executive department is willing to follow such suggestions and to lead us. It is willing to be criticized by us in Congress and by the press when the steps it takes may not have worked as well as it had been hoped they would work.

I say these things in the abstract, whereas the Senator from Montana, the Senator from Minnesota, and the Senator from Kentucky, have pointed them out in a more practical way. But I believe the people of this Nation are led by men who have faith and confidence in our way of life, and faith in our religious and personal backgrounds.

Mr. MANSFIELD. I thank the Senator from Massachusetts.

Mr. COOPER. Mr. President, I am afraid I did not give the Senator from Montana full credit for a basic theme of his speech—that of faith in our democratic system, faith that free ideas, free institutions and liberty, will eventually win in the struggle against communism. We should never forget that the people of the world will decide between systems and ideals. The Communists have great faith in their system; at least, they express such faith. We must have a greater faith in our system and our ideals. Then the strength of democratic ideals will prevail throughout the world.

Faith must be expressed in action. One of the strengths of the President of the United States is that the people throughout the world consider him to be a man of peace, a man of faith. I am not one who wants to base every policy of the Government upon the personality of the President. I do not think that is always the test. But it is a very happy and fortunate fact that people throughout the world have faith in the purposes of the President.

The Senator from Montana has proposed some steps which would indicate to the world that we have faith in our system. I agree whole heartedly with his proposal that there should be a larger association between this country and the people of the Communist countries, to show that we have faith in our ideals.

I agree with the Senator from Minnesota [Mr. THYE] that we ought not to be afraid of having our newspaper representatives go into Communist countries.

In connection with our faith in our system, I believe a great many persons throughout the world—particularly those of newly independent countries—will test that system according to its ability to produce results for them. In that connection, I think we have the responsibility of acting as we have in the past—in other words, the responsibility to give economic help and help of other kinds to those countries, so as to help both our system and their system—the democratic system—to work.

I praise the Senator from Montana [Mr. MANSFIELD] for his emphasis upon faith in our system, rather than fear.

Mr. ERVIN. Mr. President, I merely wish to observe that all Americans are debtors to the able and distinguished junior Senator from Montana [Mr. MANSFIELD] because of his constant, courageous, and intelligent fight for a sound and successful foreign policy.

Mr. MANSFIELD. Mr. President, I desire to thank the Senator from North Carolina [Mr. ERVIN] for his very kind and much-appreciated words.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VISIT TO THE SENATE BY ARTHUR GODFREY

Mr. JOHNSON of Texas. Mr. President, I am very proud and privileged to observe that in the diplomatic gallery, just behind us, there is seated one of our most diplomatic Americans, the beloved and patriotic entertainer, Arthur Godfrey, who comes into our living rooms so often and gives us so much pleasure. I am pleased that in recent months he has manifested such an interest in the legislative branch of the Government, particularly in the United States Senate. I know all my colleagues join me in extending to him a cordial welcome.

Mr. KNOWLAND. Mr. President, will the Senator from Texas yield to me?

The PRESIDING OFFICER (Mr. SCOTT in the chair). Does the Senator from Texas yield to the Senator from California?

Mr. JOHNSON of Texas. I yield to the able minority leader.

Mr. KNOWLAND. I should like to join the majority leader in extending a bipartisan welcome to the Senate gallery to Arthur Godfrey, who does so much for both the information and the entertainment of the American people.

Mr. JOHNSON of Texas. I thank my friend.

[Applause, Senators rising.]

## UNITED STATES-LATIN AMERICAN RELATIONS

Mr. CHAVEZ. Mr. President, will the Senator from Texas yield to me?

Mr. JOHNSON of Texas. I yield to my friend, the Senator from New Mexico.

Mr. CHAVEZ. Mr. President, the welcome and applause for our distinguished friend, Arthur Godfrey, are excellent. All of us love him.

But, Mr. President, what is the United States doing for Latin America? Latin America extends from Mexico to Patagonia.

In Mexico an attempt was made to obtain a trifling amount of money from Petroleum Mexicana-Pemex. But, Mr. President, I ask the Senate, what is the United States doing not only for Mexico but for all the other countries of Latin America?

In referring to Latin America, Mr. President, at this time I ask the Senate to consider particularly the Inter-American Highway.

## CIVIL RIGHTS

The Senate resumed the consideration of the motion of Mr. KNOWLAND that the Senate proceed to the consideration of the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDING OFFICER. The Senator from Texas.

Mr. JOHNSON of Texas. Mr. President, I yield the floor, so the Senator from Louisiana may be recognized.

Mr. ELLENDER. Mr. President, 170 years ago, delegates to the Constitutional Convention in Philadelphia signed the most noble document in the history of free governments. They forged a chain whose links were sovereign States, bound together by a Constitution. Thus was born the United States of America, a Federal system which has endured without substantial change for the better part of two centuries.

The objective of our Founding Fathers was the formation of a Union of States which would protect their newly won freedom and preserve their independence. With the wartime difficulties experienced under the Articles of Confederation still fresh in their minds, they sought to create a national government strong enough to defend the Nation, and with sufficient power to speak with one voice on strictly national problems. They fashioned a government whose expressed purpose was, and still is, to "secure the blessings of liberty to ourselves and our posterity."

As we debate a measure described as moderate, not only by its sponsors, but by the President of the United States as well, the Federal structure, devised with such care by the best minds our Republic had to offer, is most seriously threatened by the rising tide of expediency.

Will the Congress yield to the well-meaning zeal of some, to the partisan lusts of others? Will we do violence to this structure?

That, Mr. President, is the question the Senate must answer.

Let me state now, in this hallowed Chamber, that if this pernicious legislation becomes law, our people can be assured of only one thing—oppression.

Mr. President, our Federal system is founded upon a simple and yet basic principle. That principle is dual sovereignty—the sovereignty of the States, and the sovereignty of the National Government.

Senators know that when the Constitution was being drafted a sharp difference of opinion developed between the large States and the small States over whether representation in the Congress was to be proportional to population or whether each State was to enjoy equal representation. On these two issues a test of strength developed.

After the Convention almost disintegrated on this issue, the famous Great Compromise was reached. This compromise provided that the Members of the House of Representatives were to be elected directly by the people of each State in proportion to its population. The Members of the Senate, two from each State, were to be selected by the legislatures of each State.

In reaching this compromise, Mr. President, the Constitutional Convention refused to follow the cry of those who, like Alexander Hamilton, of New York, argued:

> The general power, whatever its form, if it preserves itself, must swallow up the State powers. * * * Two sovereignties cannot coexist within the same limits. * * * They are not necessary for any of the great purposes of commerce, revenue, or agriculture.

The Convention determined to preserve the States. The Convention realized there was indeed substance to the fear of an overpowering National Government, a fear well expressed by Pennsylvania's James Wilson, who said:

> Will the Members of the General Legislature be competent judges? Will a gentleman from Georgia be a judge of the expediency of a law which is to operate in New Hampshire? Such a negative—speaking of the proposal to permit the Congress to veto State laws—would be more injurious than that of Great Britain heretofore was. * * * If this influence is to be attained, the States must be entirely abolished. Will anyone say this would ever be agreed to?

Listen, Senators, to the words of South Carolina's Charles Pinckney:

> No position appears to me more true than this: that the General Government cannot effectually exist without reserving to the States the possession of their local rights. They are the instruments upon which the Union must frequently depend for the support and execution of their powers, however immediately operating upon the people and not upon the States.

Could anything be clearer? Here is the heart of our system—the creation of sovereign States—local governments close to the people—to act as a buffer between the people and their National Government. It is State governments which hold back the tide of all-engulfing centralism—it is the State governments which tell a National Government to yield not to temptation lest, in its effort to impose uniformity it stifles freedom.

Wipe out these State governments, destroy this buffer, demolish the bulwark of States, lay the people bare before the impersonal hands of a powerful Central Government, Mr. President, and we are not a Nation of freemen, we are a congregation of serfs.

This, I submit, we must not do and, I am sure that if the question were put to the Senate in such straightforward terms, Senators would vote unanimously to preserve the States.

Unfortunately, while the ultimate question before us is just that simple, it has come before the Senate well-disguised. Instead of reading "*Resolved*, the States shall be destroyed," it reads: "*Resolved*, we must protect the civil rights of minority groups." I shall demonstrate, Mr. President, that the bill before us is no civil-rights bill, but, instead, is a conglomeration of some of the most monstrous civil wrongs ever sought to be imposed upon a free people. The fancy language used by proponents of this measure is window-dressing; this bill is a Jezebel—a lovely lady, finely dressed, but in whose heart lies the intent to destroy, the will to pervert and stifle all that is good and just and noble in our way of life.

Strip the golden veil from the face of this bill, Mr. President, and what do we find?

First, we find a Commission—a panel of six members, appointed by the President, to be confirmed by the Senate, charged with investigating allegations that citizens of the United States have been or are being deprived of their right to vote, directed to study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution, and authorized to appraise the laws and policies of the Federal Government with respect to equal protection.

I remind the Senate that our esteemed President does not have to come to Congress to create a study group. He does not have to ask the Congress to let him study a problem within the scope of Federal power. On the contrary, the President has already created an abundance of study groups. As a matter of fact, it sometimes seems to me that this administration has spent more time studying problems than attempting to solve them.

There is only one thing in part I of this bill that makes the President come to Congress, to obtain our sanction for this so-called study group.

That, Mr. President, is the power of subpena.

I need not remind Senators that the power of subpena is an extraordinary power. Each standing committee of the Senate has that power; on the House side, only three committees have permanent subpena power—the Committees on Appropriations, Government Operations, and Un-American Activities. Other House committees have the power of subpena only on a Congress-to-Congress basis.

The administration desires to equip this new investigating group with the subpena power for only one reason—to harass and to plague the people of the South.

If a study of problems involving civil rights is what the administration has in mind, it does not need the power of subpena. On December 5, 1946, President Truman issued Executive Order 9808 which established the President's Committee on Civil Rights. This Committee was authorized to inquire into and to determine whether and in what respect current law-enforcement measures and the authority and means possessed by Federal, State, and local governments may be strengthened and improved to safeguard the civil rights of the people.

This Committee, Mr. President, reported back to the White House in 1947. That report, entitled "To Secure These Rights," was detailed; it is 173 pages long. There is no indication in it that the Committee encountered any difficulty, or was hampered in conducting its study, because it was not equipped with the power of subpena.

The very fact that the Commission created in this bill would be armed with subpena power negatives any attempt to disguise it as purely a study group. On the contrary, it is to be an investigative group, a band of hunters—it will

perform tasks which, in the field of purely criminal law, are performed by grand juries. I warn the Senate now that with the power of subpena, this roving grand jury with nationwide jurisdiction can pry into private files and otherwise obtain information which can later be used as the basis of an action by the Attorney General under either parts III or IV of the pending measure, or under the so-called civil-rights criminal statutes now on the books.

If there is any doubt on this point, it can be dispelled by Senators referring to page 13 of the hearings conducted by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee. I quote from Attorney General Brownell's testimony concerning the need for this Commission:

> It should be remembered that under existing law there is no agency anywhere in the executive branch of the Federal Government with authority to investigate general allegations of deprivation of civil rights including the right to vote.
>
> The Federal Bureau of Investigation has an investigative jurisdiction in this civil-rights area, but its authority is limited to investigating specific charges of violations of criminal statutes.

Now, Mr. President, comes the clincher. Mr. Brownell laid the foundation, and now he lets us peek at the kind of structure he wants to place thereon. I continue to quote:

> Thus, the services of the FBI can be utilized in this field only in gathering information and evidence in connection with specific charges which if proven can lead to criminal prosecution.

In other words, Mr. President, just as the FBI gathers evidence to be used in a purely criminal prosecution, so will this Commission—this so-called study group—this roving grand jury—gather evidence to be used in the prosecutions authorized in parts III and IV of the bill, prosecutions criminal in nature but masquerading in the robes of equity.

Let us be frank. The Commission sought to be created under part I is to be used to investigate, to compel the production of evidence, to incriminate, and to act as the investigatory arm of the Civil-Rights Division proposed to be created in the Justice Department under part II of the bill.

I am going to be quite candid and factual, and remind Senators that it is no coincidence that the termination date of this so-called study group coincides with the next presidential election year. Not only could this be used as a witch hunt, Mr. President, it could be used as a political witch hunt. If the proposed Commission were created, the Nation could witness a Roman circus such as we have never seen before.

Let me ask Senators if they do not find it strange that the only standards for selection of members of this Commission, are political standards. The issues which this so-called Commission would allegedly investigate are not political issues—at least, they should never become political issues. Basically, they are regional issues. Where, then, are representatives of the areas where the Commission would most certainly operate? Where is the voice of the South, the North, the East, or the West, on the Commission?

In addition, Mr. President, the Commission would investigate problems upon which there is a great difference of opinion. I do not believe that any Senator can state in good conscience that public opinion upon the broad issues falling within the proposed Commission's power is so unanimous that there is no difference of opinion.

Yet, where is the guaranty that the members of this Commission will include at least one person whose views represent those of a number of our people? Once a divergency of opinion is recognized, once it is conceded that many of our citizens bear strong feelings on these issues—feelings which are not concurred in by other citizens—should not room be made for both viewpoints?

Let no one be so foolish as to believe that the broad grant of power to this Commission does not entail an impact upon Federal-State relationships. On page 6 of the bill is found language which would command this Commission to—

> (3) Appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

Any power the Federal Government has, or may have, in the area of equal protection of the laws flows from the 14th amendment to the Constitution. I know of no Court opinion which has ever held that insofar as the equal-protection clause of the 14th amendment is concerned, it prohibits anything more than State action. Of necessity, then, the appraisal which the Commission is directed to undertake will carry with it a substantial impact upon the relationship between the State and Federal Governments.

I fail to find, however, any mandate in part I of the bill which would also require the Commission to temper its appraisal of equal protection on the anvil of the 10th amendment. The Commission, if one is to be created, should also be commanded to reveal to the President not only its appraisal of laws and policies of the Federal Government with respect to equal protection of the laws, but also what effect Federal laws and policies may have upon Federal-State relationships as created under the Constitution, the reserved powers of the people and the States guaranteed by the 10th amendment to the Constitution, and other basic rights of the people and the States, if the latter are to exist as sovereign entities of our Government.

Thus, Mr. President, part I of the bill, alone, carries a substantial threat to the existence of States. It would do these things:

First, create a Federal investigatory body, capable of using the extraordinary power of subpena to harass the people, to obtain from them and from their books and files, information which could be used as a basis for prosecution of a civil or criminal action by the Federal Government.

Second, it ignores the fact that the problem inherent in its jurisdiction—that is, race relations—is a problem with many facets in various regions of our country. There is no guaranty that those regions will have a voice on the proposed Commission.

Third, although it touches upon the very essence of our governmental system, the Federal-State relationship, there is no mandate given the Commission to consider this relationship in connection with its fishing expeditions.

Fourth, because the only standard laid down for nomination to Commission membership is political, this Commission is capable of being used to conduct a political witch hunt which could easily coincide with the holding of elections for national office.

These are the major dangers in this Commission. I shall perhaps have occasion to later discuss in detail such other dangers as the waiver of conflict-of-interest statutes for the advisory and other personnel the Commission would be empowered to employ, and the lack of standards governing the selection of these uncompensated personnel. Suffice it to say that there is no doubt in my mind that any voluntary help so employed would be drawn from such organizations as the National Association for the Advancement of Colored People, Americans for Democratic Action, the Antidefamation League, and similar groups. Permitting the utilization of volunteer help of this nature would prove to be about as fair and unbiased as the Subcommittee on Internal Security hiring members of the Soviet Presidium to aid in its investigations of subversion.

In other words, Mr. President, the Commission as it would be created under the bill contains no safeguard assuring our people that it would conduct a fair and factual investigation. The only positive features embodied in that part of the bill providing for the Commission's creation are features which are subject to extreme abuse and misuse.

Part II of the bill is entitled "To Provide for an Additional Assistant Attorney General." I would like for someone to enlighten me as to why this part is necessary. Certainly the Justice Department should need no more Assistant Attorneys General—nine are authorized already—unless mass lawsuits against our people are being contemplated. No separate division on civil rights can be justified unless it is on the basis that the legislation before us is going to spawn such a multitude of lawsuits that an entire division must be detailed to prosecute them. If this is so, then under what theory can this possibly be described as a moderate bill?

Any time, Mr. President, that the passage of legislation carries with it the actual or implied necessity for the creation of another bureau, staffed by an unknown number of lawyers, clerks, and other employees, it behooves Congress to move slowly, lest we find we have devised and breathed life into a Frankenstein monster.

It does not require an act of Congress for the Attorney General of the United States to assign one of the Assistant Attorney Generals now on the Federal roster to handle civil rights litigation.

There is already in existence, in the Justice Department, a civil rights section in the criminal division, and this section handles all existing civil rights litigation. Now, however, the administration declares that it needs not only a full-fledged additional Attorney General to give the cause of civil rights added prestige, but it also needs a full-fledged civil rights division. In other words, this bill—which its proponents mistakenly describe as moderate—is going to require a whole division, a new Assistant Attorney General, multitudes of lawyers, legions of clerks, and the Lord only knows how many other people to take care of the litigation in contemplation.

I should like to remind the Senate that the only limit upon the number of persons employed in this new civil rights division is the amount of money appropriated each year. Heaven only knows how many attorneys and clerks will be added to the Federal payroll. The pending bill is silent on this point. I am reliably informed that an effort was made by members of the House Judiciary Committee to limit the number of attorneys which would staff this division. I understand that a number of amendments were offered to fix the total number of attorneys at first 10, then 20, again 30, and finally 100. All of these amendments were defeated. I think, then, that it is a fair implication that this division will require the services of more than 100 attorneys, plus staff and clerical help to assist them.

Why so many attorneys, Mr. President? Let us look at the Attorney General's testimony before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee for the answer. While being questioned by the Senator from Missouri [Mr. HENNINGS], Mr. Brownell stated that this new division was necessary because the civil rights field is extraordinarily complex.

This answer gives us the clue as to why so many lawyers will be needed in this division. They will be needed because in the area of civil rights, persons assigned to this division will displace the local Federal district attorneys in prosecuting civil rights cases. That, Mr. President, is the sole reason for the creation of this new division—that is the only logical excuse for adding another division to the army of lawyers who make the Justice Department their abode.

Thus, Mr. President, a close scrutiny of parts I and II of this bill provides us with a powerful example of how a legal A-bomb can be stowed away in a perfume bottle.

By way of emphasis, in part I, Congress is being asked to create a powerful arm of the Federal Government which will be the civil rights equivalent of the Federal Bureau of Investigation. This Civil Rights Commission will be more powerful than the FBI in that it will be clothed with the right to subpena. It will be able to pry at will into private files and papers, and compel the testimony of individuals.

To supplement the efforts of this so-called factfinding Commission, there will be the willing and numerous hands of employees in the new Civil Rights Division authorized under part II. I can see them now, pouring over the records of Commission investigations, drawing their pleadings, hauling citizens by the thousands before Federal courts to answer a myriad of complaints. Has the commonsense of the American people been lulled so far that they wish to grant this kind of authority to a group of prosecutors in Washington, D. C.? Has the magical hypnotism exerted by the NAACP and others so captivated our politicians that they are willing to turn the day-to-day lives of our people over to a band of Federal lawyers in the Nation's Capital? Has the spirit of liberty, of freedom, of the rights of sovereign States and independent peoples become so emaciated as to subscribe to such legislation?

The Lord have mercy on our land if it has.

Let us now turn to part III of the bill. This, Mr. President, is the most deadly, and at the same time, the most heavily gilded part of this legislation. During the past few months, the theme song of sponsors of this legislation has been tuned to one wavelength. Across the length and breadth of our land the serenade has gone forth:

> This is a moderate bill—this bill will do nothing more than protect the right to vote.

This is what proponents of the measure would have our people believe, but it is not so.

Within the broad and nebulous field of civil rights, the authority in part III would vest police powers in the Federal Government; it would destroy the rights of States to prosecute for criminal offenses; it would deny the constitutional rights of United States citizens to indictment by grand jury and to trial by jury; it would undermine the basic foundation upon which our freedom rests. Let me read it, Mr. President; let me read part III, and as I do, I remind the Senators and our guests in the galleries that this is not the part that deals with voting rights. Part III is entitled "To Strengthen the Civil Rights Statutes, and for Other Purposes."

It provides additional remedies, to be exercised by the Federal Government, for certain acts. These acts are outlined in an ancient statute passed during reconstruction days—during a period when, and the Supreme Court of the United States is my authority—the South was still regarded as a conquered province.

That statute gave, and still gives, an individual the right to bring a civil suit for damages against persons engaging in three specific classes of acts. In general, these acts are as follows:

First, a conspiracy to prevent anyone from holding or exercising the duties of public office.

Second, a conspiracy designed to hinder a party or witness to a suit before a Federal court, or a conspiracy which has as its purpose the impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory with intent to deny to any person the equal protection of the laws, or to injure any person or his property for lawfully enforcing or attempting to enforce the right of any person or class of persons to the equal protection of the laws.

Third, a conspiracy to deprive, either directly or indirectly, any person or class of persons of the equal protection of the laws, or the privileges or immunities of Federal citizenship.

I remind Senators, that if any one of the acts outlined in the three categories above are found to exist, an individual, in a civil suit brought by himself on his own motion, can recover damages, under existing law.

However, superimposed upon this structure are the remedies proposed in this bill. With respect to part III, this bill would permit the Federal Government to bring a civil action—and I quote:

> Whenever any persons have engaged, or there are reasonable grounds to believe that any persons are about to engage in any acts or practices—

Outlined in the three sections I have previously explained.

The language on page 10 of the bill appears innocuous to the casual reader, but it is poison. For instance, besides authorizing a civil action on the part of the Federal Government to vindicate rights pertaining to individuals, it also specifies that these actions shall be brought in a Federal court, and that the Federal court chosen shall exercise its jurisdiction without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

In other words, it proceeds upon the assumption that all State courts and all State officials are corrupt and immoral; it completely destroys the basic theory of our Federal system of Government, namely, that the States are the sovereignties to protect and to provide forums for the vindication of violations of individual rights.

Besides bypassing State tribunals, this portion of the bill completely abrogates a number of constitutional safeguards created for the protection of individuals from the naked and unbridled power of a centralized government.

Let us see what rights are embraced within the broad generic terms, equal protection of the laws, and privileges or immunities of Federal citizens.

I preface this by stating that it is impossible to state at any specific moment just what these rights consist of, because the equal protection and the privileges and immunities clauses of the 14th amendment are constantly being redefined by the Supreme Court. However, among the rights listed by the Attorney General in the Senate hearings are these three:

> Right not to be discriminated against in public employment on account of race or color.
>
> Right not to be denied use or enjoyment of any Government-operated facilities on account of race or color.
>
> Right not to be segregated under compulsion of State authority on account of race or color.

This last, of course, involves not only school segregation, but segregation on purely intrastate busses or other vehicles, on public golf courses, in public

swimming pools, and other public facilities.

In addition, there are indications in the House hearings that the bill is designed not only to include these basic rights, but also such things as a right not to be assaulted because of race or color; the right not to be murdered because of race or color; the right not to be robbed—in fact, any crime or act which, because of motive, could be construed as based upon race or color.

The illustrious chairman of the House Judiciary Committee indicated that a case of aggravated assault could fall within the purview of this part of the bill. I quote from page 640 of the House hearings, where the chairman, Representative CELLER, who is a very eminent and prominent attorney from New York, engaged in the following colloquy with Mr. Edward Scheidt, commissioner of motor vehicles of the State of North Carolina:

Mr. SCHEIDT. I would not favor the Federal Government prosecuting people in Federal court for aggravated assault cases which can be fully prosecuted under existing local laws.

The CHAIRMAN. Should you not then seek to change the 14th amendment? The 14th amendment speaks of equal protection under law. In common parlance that covers almost everything. It covers life. So even a simple assault might infringe that constitutional provision. Any kind of act might.

If that should ever happen, Mr. President, if the Federal Government should be permitted to supersede State authorities in the trial and punishment of criminal acts such as aggravated assault, then we might as well abolish State governments.

I remind the Senate, too, that although these actions which the Federal Government would be empowered to bring are actions on behalf of aggrieved individuals, the persons actually aggrieved need not consent to or authorize the bringing of the suit. Instead, an eager band of Federal lawyers, operating out of Washington, could decide to enforce some private individual's right without obtaining that individual's consent.

The primary purpose of part III is to give the Justice Department the authority to institute proceedings for preventive relief in the civil-rights field. This means suits for permanent injunctions, temporary injunctions, restraining orders, or other preventive order. In addition, the Government could file suit for a declaratory judgment.

As has been so ably pointed out by my distinguished colleagues, the senior Senator from Georgia [Mr. RUSSELL], the senior Senator from North Carolina [Mr. ERVIN], and others, private citizens could be sent to jail without jury trial, without the benefit of a grand jury indictment, without being permitted to confront their accusers, under the authority granted by part III of the bill. The Government of the United States could be the prosecutor, grand jury, judge, and jury. The same judge who issued the restraining order could try its alleged breach. And, Mr. President, under legislation which is now being considered by the Congress to temper the far-reaching results of the recent Supreme Court decision in the Jencks case, the same judge who is serving as prosecutor, judge and jury, would have the sole right to determine how much, if any, of the FBI files relating to the case at hand would be made available to the defendant.

I ask, Mr. President, if this is not an example of unbridled, unlicensed power extended to its utmost. As my distinguished colleague from North Carolina [Mr. ERVIN] indicated in the Senate hearings: Judges are human; they are subject to the same frailties as other men. It is not inconceivable that their personal anger at having their decrees violated will override their judicial temperament.

Americans should pay close attention to the words of my distinguished colleague; he speaks with the wisdom and experience which have come from many years of splendid and meritorious service on the highest court of North Carolina.

I say, Mr. President, that our Founding Fathers never contemplated the substitution of a court of equity for a court of criminal law. The memory of the star chamber was still too fresh in the minds of the American Revolutionists for them ever to dream that the established principles of equity jurisprudence would be so perverted.

I ask proponents of the measure this question: How far does this bill go? Would it empower Federal courts to enjoin State legislators from enacting laws abolishing public schools? For instance, would it permit injunctions to issue against State legislators desirous of clinging to segregated public schools as long as possible? If so, would it not be possible for the entire membership of State legislatures to be jailed for violating such an injunction?

If such an injunction could not issue, tell me where in the bill the restrictive language is found? Where in the Constitution does one find language which would prevent a Federal court from enjoining members of a State legislature from attempting to pass an act which a Federal court felt was a denial of equal protection?

Are there court decisions on this point? If there are, how long will they stand? I remind Senators that many long-established doctrines of constitutional law have been overturned in recent years. Does the fact that the Supreme Court has spoken on one subject give us any assurance that the Court will not change its mind, perhaps tomorrow?

It is difficult for the implications of this bill to be fully explained to persons not lawyers because its proponents, particularly the Attorney General, have declared time after time that the application of principles of equity jurisprudence to the field of civil rights should cause no alarm. However, this high-sounding declaration rests more upon nebulous pie-in-the-sky platitudes than actual facts.

Is there not cause for concern when American citizens can be carted off to jail as a means of punishment without a trial by jury? The most frequent reply to this is that courts must have power to punish summarily for contempt.

This is, at best, a half truth. There would be a grave constitutional question raised if Congress attempted to require jury trials in cases of contempt committed in the presence of the court. Judicial power to punish for such contempts is incontestable.

However, when the contempt to be punished occurs away from the courtroom, and out of the presence of the judge, another issue is raised.

This critical issue becomes more apparent when it is viewed in the light of the often-stated reason cited in attempted justification of this proposed legislation. The proponents of the bill have stated on numerous occasions that the reason this authority is needed is that southern juries will not convict in civil-rights cases.

I cannot imagine that Congress would fall all over itself to pass proposed legislation bypassing jury trials in the District of Columbia because the United States Attorney for the District of Columbia had had difficulty obtaining murder convictions. I remind the Senate that the entire concept of the jury system is based upon the principle that a verdict of "not guilty" must be returned unless all members of a jury are convinced beyond a reasonable doubt that the accused committed the act charged. It is a sad day for our country and our people when Congress is implored to find a way around jury trials, because the Justice Department is having difficulty obtaining convictions. I say, Mr. President, that if the charge of bias is leveled, let it not be leveled alone at southern jurors.

Let the muzzle also point at those who, in their all-seeing wisdom, desire to substitute their judgment for that of 12 men good and true.

Once the veil is lifted on this proposed legislation, then no statements or promises or explanations can change its ultimate purpose or its impact. This proposed legislation is before the Congress today because the conventional route of criminal actions has not produced the number of convictions that the civil-rights section of the Justice Department feels it should. Hence, in the eyes of the bureaucrats, the solution is to substitute a cause of action in equity for one in criminal law—to bypass grand-jury indictments, to short-circuit the traditional guaranty of trial by a jury of one's peers, to do away with confrontation of witnesses. If this is not burning down the house to roast the pig, I do not know what it is.

I realize that the proponents of the measure cite 28 statutes which permit Federal courts to enjoin certain actions. Each and every one of those statutes has been enacted under some specific grant of authority to the Federal Government. The great bulk of them flow from the authority of Congress over interstate commerce.

I defy any Member of the Senate to show me where the Constitution confers upon the Federal Government any right to control swimming in a public pool, attending an unsegregated school, playing golf on an unsegregated golf course, or the right to indulge itself in connection with any right enumerated in court

decisions under the 14th amendment. Yet, Mr. President, these are the rights the Federal Government would be empowered to enforce in its own name or on its own behalf, under the bill.

In an action for contempt based upon violation of a Federal court injunction, the right to trial by jury is guaranteed, except where the United States is a party. This exception is no doubt founded on the theory that where the United States is a party to such actions, it is acting to protect one of the powers granted to it under the Constitution, such as the power to regulate interstate commerce. Hence, as the sovereign, it is held by some that the Government should not have to rely upon trial by jury for redress of injuries done to authority flowing from these powers.

When draped with the mantle of sovereignty conferred by the Constitution, the Federal Government should not, in cases involving granted power, be open to possible injury by jury trial. I may note, however, that there is one class of cases where jury trial is guaranteed, even where the United States is a party, and that is in labor disputes.

So, Mr. President, the real question before the people of this country is whether the Federal Government would be exerting its authority as a sovereign under the terms of this bill. The answer is in the negative. It would not, for at least two reasons:

First, the rights this bill undertakes to protect are not rights of the Federal Government, but are rights of individuals. Hence, the cause of action which would be sued upon by the Federal Government is a derivative right, one flowing from an individual; it is not a right pertaining to the Federal Government as sovereign. Thus, if the suit of an individual would result in a trial by jury—as it would, under existing law—the suit of the Federal Government, based upon that individual's right, should also require trial by jury.

Second, the usual means employed by a sovereign to safeguard the rights of individuals is the criminal action. A criminal action is based upon the sovereign's duty to protect society against the assaults of wrongdoers. A criminal action is the traditional and, I submit, the only reasonable means a sovereign should use to vindicate the private rights of its people. And, Mr. President, in a Federal criminal action, the accused is guaranteed grand-jury indictment, speedy trial, freedom from self-incrimination, the right to confront his accusers, and trial by jury.

Put briefly, what the Attorney General wants and what this bill would grant are all the advantages of a derivative civil cause of action, and none of the disadvantages. He wants to stand in the shoes of an individual in enforcing that individual's rights; but he also wants to exercise the immunity from jury trial which Congress has generally extended to the Federal Government in the fields where it is enforcing primary, as opposed to derivative, rights. In other words, Mr. Brownell wants to use the immunity which now accompanies Federal sovereignty, to obtain unfair advantage in an area where the Government is not entitled to act as the sovereign.

I do not believe Congress should sacrifice the constitutional rights of our people or its citizens to satisfy the Attorney General's desire for quick and easy convictions in the civil-rights field.

The Attorney General appeared before subcommittees of both the Senate and the House Judiciary Committees, and he proceeded to shed crocodile tears over the need for this proposed legislation. Let me read what he said; I shall quote from page 3 of the Senate hearings. He discussed the so-called need for the bill. He pointed out that the Federal Government can now initiate criminal proceedings, and that today individuals are empowered to bring civil actions in the field of civil rights. However, Mr. Brownell piously expressed this sentiment:

> The major defect in this statutory picture, however, has been the failure of Congress thus far to authorize specifically the Attorney General to invoke civil powers and remedies. Criminal prosecutions, of course, cannot be instituted until after the harm actually has been done; yet no amount of criminal punishment can rectify the harm which the national interest suffers when citizens are illegally kept from the polls.
>
> Furthermore, I think it is fair to point out that criminal prosecutions are often unduly harsh in this peculiar field where the violators may be respected local officials. What is needed, and what the legislation sponsored by the administration would authorize, is to lodge power in the Department of Justice to proceed in civil suits in which the problem can often be solved in advance of the election and without the necessity of imposing upon any official the stigma of criminal prosecution.

Let us wipe away the crocodile tears in which those words are bathed, Mr. President; and let us look at the points Mr. Brownell emphasizes.

First, he says criminal prosecutions are often unduly harsh. This, of necessity, implies that the civil prosecutions proposed in the bill would not be unduly harsh. Obviously, such an implication is erroneous. The punishment for a criminal violation is fine, imprisonment, or both. In other words, as to the type or quality of punishment involved, there would be no difference.

As to quantity, that is, amount of the fine or length of the imprisonment, existing criminal law specifies maximums. However, under this bill, both fine and imprisonment would be discretionary—the judge could fix the amount of both. If this is beneficial, if this is less harsh than the criminal procedure, I should like to know how the Attorney General reaches that conclusion.

In addition, of course, this so-called beatific bill would permit imprisonment without any accompanying right to grand-jury indictment, of confrontation of witnesses, trial by jury, or the other constitutional safeguards erected around individuals subject to criminal proceedings.

The only way I can figure that the procedure authorized under this bill would meet the test of "not unduly harsh" would be in easing the work of the Federal prosecutors. They are the ones who would benefit—not persons accused of the unspecified acts which the bill would make amenable to the proposed quasi-criminal redress.

The Attorney General also refers to the fact that this proposed legislation would permit the Government to solve problems in advance. Let me pose this question:

What difference is there between an injunction once it has issued, and the criminal statutes now on the books, insofar as a possible violation of either might be involved?

At the present time, we have written into law a statute with regard to the right to vote, which makes it a crime for any election official, for example, to discriminate against individuals because of their color. In essence, the law now states: Do this prohibited act, and you will go to jail.

Under the so-called civil-rights bill that is now under discussion, a Federal judge would issue an injunction. This injunction would state, in effect, "if you do this act, if you violate this injunction, you will be in contempt, and you will go to jail."

To put it another way, Mr. President: A criminal statute is an admonition equivalent to an injunction directed against all persons. What the bill now proposes is to provide for another form of admonition, a court injunction, one issued by a judge instead of by Congress.

Thus, the purpose behind this bill is laid bare—it seeks to bypass the constitutional safeguards erected by our Founding Fathers to protect people charged with crimes from the arbitrary exercise of Federal power.

Mr. President, proponents of this measure have erected a multitude of strawmen which they are now busy knocking down. I am sure the Senate has heard the argument that since some of the Southern States do not require a trial by jury in criminal contempt cases, the Federal Government should not do so, either. My own State of Louisiana has been cited as an example.

I do not intend at this time to enlighten the Senate at any length on the provisions of Louisiana law. We have a very unique system of jurisprudence in Louisiana, a system based upon the Code Napoleon, as contrasted with the English common law in effect in the other 47 States. I am sure that Senators will find a detailed discussion of Louisiana law of much interest, and it is entirely possible that they may have the opportunity to be enlightened on the provision of the Louisiana Civil Code and Revised Statutes before this debate is ended.

However, I shall reserve that subject for later consideration.

With respect to any jury trial guarantee or lack thereof in criminal contempt cases in Louisiana, I would remind those who attempt to compare Federal and State laws in this respect that there is no basis for comparison. The States are not bound by the sixth amendment to the Constitution, requiring a jury trial in criminal prosecutions. It is my understanding that the States could abolish trial by jury in criminal cases altogether, with the only risk imposed being that of running afoul of the 14th amendment's guaranty of due process of law. Therefore, Mr. President, when some

proponents of this measure glibly state that because some States do not guarantee jury trials in criminal contempt cases, the Federal Government has no obligation to do so either, they overlook completely the fact that the sixth amendment is applicable to the Federal Government while it does not apply to the States.

I remind Senators that we cannot stumble over ourselves in our haste to throw the weight of the Federal Government into State, local, and individual affairs under the guise of protecting so-called civil rights of some of our people without cutting the heart out of the rights of all our people.

What about freedom of assembly?

What about freedom of speech?

What about freedom of the press?

What about freedom of petition?

I say that this bill, and, to be more specific, part III, could be used to not only infringe upon these rights, but to abolish them altogether, insofar as the subjects therein involved are concerned. Senators will note that courts could enjoin any persons who are "about to engage in any act which would deprive a United States citizen of the equal protection of the laws."

When is someone about to engage in a conspiracy, Mr. President?

Suppose the editor of a newspaper writes an editorial to the effect that school integration is foreign to our way of life. What about an editor's right to print such an editorial? Is it not crystal clear that an injunction forbidding the writing or publishing of such an editorial would cut the heart from our guarantee of a free press.

What about a group of citizens gathered together in another's home to discuss ways and means of maintaining school segregation? Could a court not find that they are about to engage in a conspiracy? If they were enjoined, what would happen to freedom of speech and freedom of assembly?

Suppose a group of citizens petitions Congress to initiate a constitutional amendment which would permit school segregation. Could an overeager Federal judge enjoin these citizens from presenting that petition? If so, what has become of the guaranty of all citizens to petition Congress?

This is a vicious bill, Mr. President. It is vicious for no other reason than that it grants to a Federal judge unbridled power which no one individual should ever have—the power to try, to convict, to jail—a power without effective limitation, the kind of power which made the Star Chamber a term which still strikes dread into the hearts of students of Anglo-Saxon jurisprudence.

I could discuss part III of this bill in much greater detail. I could dwell at length upon the dangers contained in that part. I shall not do so at this time, other than to once again point out that the language is so broad, the acts to be prohibited so general, the naked power therein granted so immense, that to place such authority on the Federal statute books would remove the basic underpinnings of our Constitution.

I turn now to part IV.

Part IV, we are told, is designed to protect the right of citizens to vote. I do not believe any of us can quarrel with this right. It is a right which is guaranteed by the Federal Constitution. However, there is a proper way to protect this right. I say that part IV is an improper exercise of whatever power the Federal Government has in this field.

Here, as in part III, State administrative and judicial remedies are bypassed. Here, again, is reflected the theory which runs throughout this bill—that State agencies are corrupt, State judicial forums are untrustworthy, and State officials disregard guaranteed Federal rights.

What has happened, Mr. President, to the time-honored legal principle that State legislative enactments are presumed to be constitutional, that State officials are presumed to act legally? What showing has been made that this presumption should not only be erased, but that it should be reversed? What case have proponents of this vicious bill made that the State governments, charged under our Constitution with safeguarding the rights of individuals, should be bypassed, their forums ignored, their agencies and officials blacklisted?

I have seen no such evidence; all that have been offered are isolated examples which are bound to appear under a system which is based upon the principle that one is innocent until proven guilty, that justice is best served by placing the burden of proof upon the prosecutor instead of the accused.

What about the procedure selected in this bill to allegedly safeguard the right to vote? I submit that it is a method which cuts the heart out of the constitutional guaranty that States are to be free to fix the qualifications of their voters.

The 15th amendment prohibits any State from imposing elective qualifications based upon race, color, or previous condition of servitude. Article I, section 2, has been interpreted by our Supreme Court as giving American citizens a Federal right to vote—a right secured by the Federal Government. Yet, Mr. President, it is obviously the desire of proponents of this measure to use these constitutional guaranties as a weapon to cut across the accompanying constitutional guaranty that States can fix the qualifications of their voters.

Let us remember that this bill bypasses State agencies. Persons denied registration by properly empowered State officials may use this bill to place their case before a Federal forum. This forum can enjoin. Even more dangerous, it can—on affidavit alone, if Senators please—require State officials to permit challenged voters to vote without the court hearing both sides.

Mr. President, any voter denied registration could make a "Federal case" out of that denial, even if the denial were founded upon perfectly valid grounds. Let us assume that an individual, a Negro, has been denied registration because he has not resided in the State concerned for the required period. Certainly this is a valid reason for denying registration. However, if the aggrieved person desires to challenge the registrar's ruling, he is not required to turn to State authorities, authorities which under our Constitution are charged with promulgating and enforcing voter qualifications. On the contrary, he can allege that his right to register was denied on the basis of race alone. A Federal judge will pass upon State law. Or, and this is obvious and inherent in the Attorney General's testimony, the Federal Government will take that individual's case. Uncle Sam will bring the suit to test the State's voting requirements, before a Federal judge. Mr. President, can any Senator honestly declare that the purpose of our Constitution, the foundation upon which our Federal system is built, contemplates Federal courts bypassing State laws establishing qualifications for voting?

Louisiana, I am proud to state, has no poll tax. I served in the Louisiana Legislature when the constitutional amendment abolishing the poll tax was submitted to the people. However, several States have such taxes. It is, I believe, their right under our Constitution to levy them, and until the poll tax is prohibited by constitutional amendment, it is valid.

However, this measure would permit the Federal Government, acting for an unnamed individual, to test State poll-tax laws in a Federal court—to even enjoin their enforcement.

Under this procedure, what would become of the right of States to fix voting qualifications? The answer is obvious, Mr. President. That right would cease to exist.

I intend to use the poll tax as a basis for an address during other discussions of this bill. I shall discuss in detail how the Federal power this measure proposes to unleash upon our States would wreck States rights—it would deny to our States their right to prescribe reasonable qualifications for voting.

But there is more in part IV of this bill than a mere protection of the right to vote. There is even more than the provision bypassing State agencies, officials, and courts in this matter.

I refer to the language in which this part is couched.

Senators will note that the new language is an addition to section 2004 of the Revised Statutes, which section states that all citizens of the United States who are otherwise qualified to vote shall be entitled to vote in a specified classification of elections regardless of race, color, or previous condition of servitude.

The first subsection, subsection (b), supplements the statement I have just outlined. It is a straight prohibition against any person intimidating, threatening, coercing, or attempting to threaten, intimidate, or coerce anyone for the purpose of interfering with his right to vote.

The second subsection of the new language, subsection (c), provides for a civil action, to be brought by the United States or on behalf of the United States, against any person who has engaged or who has given reasonable grounds to believe that he might engage in any act

or practice prohibited under subsection (b).

Thus, putting these two cleverly worded and strategically placed subsections together, we have the United States authorized to bring a suit for injunction against any person who might be about to attempt to intimidate or coerce another person in his right to vote.

I have discussed this particular part of the bill with several attorneys, and I have not found one of them who can specifically give me any concrete idea of when an individual might be about to attempt to intimidate another person.

We know generally what intimidation involves, although this term is extremely broad. We are all familiar with an attempt; that requires no discussion. However, I pose this question to my learned colleagues who serve on the Committee on the Judiciary:

Please explain to me what specific acts are involved when an individual is about to attempt to intimidate another.

Part IV of the bill is nothing more than an attempt to place on the statute books legislation which was repealed in 1893—namely, the old Federal election laws.

Senators are aware that these were Reconstruction period statutes; the legislation was directed primarily at the Southern States, which lay prostrate beneath the heel of Federal troops. The Federal elections laws were fashioned by the radical elements in Congress who, under the guise of enforcing purity of elections, had as their main objective the continued control and harassment of the Southern States.

Those were vicious laws, Mr. President. Yet, they had several advantages over part IV of this bill. In the first place, they were vicious per se; one did not have to indulge in a will-o'-the-wisp search through the United States Code, the Revised Statutes, and the Statutes at Large, Federal court rules and Federal court decisions in order to find what power they gave to the Federal Government, as is the case with the bill we are discussing.

Under those acts, a system of election supervisors was created, appointed by the Federal courts. These supervisors attended all elections and the counting of votes. They were present in all places where persons registered to vote. They inspected voting lists in an effort to detect and expose any abuses of voting rights.

Special Federal deputy marshals were appointed with power to arrest any person who interfered with the voting of electors.

Persons so arrested were required to be brought before a United States commissioner, judge, or court for examination under the procedure established for crimes against the United States.

These judges might be right next door, for the law provided that if 2 citizens of cities over 20,000, or 10 citizens in any county or parish, requested in writing that an election be guarded and scrutinized by a judge, the judge was to open circuit—district—court within 10 days prior to registration or, if there was no registration required, within 10 days of election.

I want to emphasize to the Senate and to the people of our country, that part IV of this bill authorizes an even more stringent procedure for controlling elections. Instead of court-appointed commissioners to guard elections, employees of the new Commission on Civil Rights, or of the newly created Civil Rights Division of the Justice Department, could present themselves at polling places.

Should they find what they considered to be violations of voting rights, they could initiate proceedings in the name of the United States, through the Civil Rights Division.

If an injunction had issued under part IV of the bill, one running against unknown as well as named persons, as did the injunction in the Clinton, Tenn., case, the Civil Rights Division official could have the enjoining court proceed against persons so charged for contempt, and they could be sent to jail.

I say, Mr. President, that in this respect, part IV of the proposed legislation is even more offensive than the nefarious election laws which Congress repealed because of their obnoxious effect. Senators will recall that under those laws, parties arrested were to be proceeded against "under the procedure established for crimes against the United States," meaning that such persons had a right to grand jury indictment, speedy trial, right of confrontation, and trial by jury.

Under the bill now on the calendar, the proceeding would be a contempt action without grand jury indictment, without any right to a speedy trial, without the right of confrontation, without trial by jury.

I intend to show in greater detail the similarity of these two schemes in a subsequent address upon the bill, if it should be made the pending business. Suffice it to say, Mr. President, that although the so-called civil-rights bill now on the Senate Calendar is apparently simple and innocuous, it would result in Congress reenacting the Federal election laws of reconstruction days—laws which Congress found so burdensome, so destructive of the rights of States and the people, that they were repealed.

Mr. President, I remind my colleagues from the North that although the election laws of Reconstruction days were directed first and foremost at the South, their impact was felt throughout the Nation. As a matter of fact, their repeal followed hard on the heels of a special Congressional investigation conducted in New York City, of all places. In other words, despite the fact that these laws were intended to affect the South, they seem to have ricocheted off into other sections of the country—in fact, they affected other areas so much that they had to be repealed.

In New York City, the only place where an investigation of their operation was conducted, conditions were abominable. This is what the majority of the Select Committee of the House to Inquire into the Supervision and Administration of Election Laws in New York stated in its report.

Bear in mind that this was a hearing held in the city of New York, in order to find out how the then existing election laws, passed during reconstruction days, were operating.

First, as to the reason for selecting New York City as the site of their investigation, the committee said:

> The evidence taken before the committee and submitted with this report to the House relates entirely to the administration and supervision of the election laws by Federal officers within the city and county of New York.
>
> It is assumed by the committee that the administration and results of such laws would nowhere appear more clearly or in a better light than in the city of New York.
>
> It is believed that in the largest city in the country, where every class of our voting population is fully represented and where the respective parties have for years made their principal headquarters at important elections, and under the constant publicity given by the best organized and most effective newspaper press of the world, the actual workings of these laws and their good or evil results can be more clearly seen and appreciated and more intelligently judged than is possible anywhere else.

I ask Senators to bear in mind that the laws to which I have been referring throughout this discussion are the obnoxious Reconstruction laws relating to voting.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. RUSSELL. I am greatly impressed with the very diligent research made by the distinguished Senator from Louisiana, and the parallel which he draws.

As I understand, the laws to which he refers were repealed about 1893 or 1894.

Mr. ELLENDER. February 8, 1894.

Mr. RUSSELL. Does the Senator recall in what year this investigation was made?

Mr. ELLENDER. During the year 1892.

Mr. RUSSELL. Shortly prior to the repeal of the laws?

Mr. ELLENDER. Yes. The hearings formed the basis for the repeal of the laws.

Mr. RUSSELL. So this was a case in which certain election laws were aimed at the South.

Mr. ELLENDER. Yes.

Mr. RUSSELL. But their enforcement in the city of New York became so obnoxious, and resulted in such election frauds, that Congress had to repeal the laws.

Mr. ELLENDER. Exactly. I have before me the report relating to the investigation of election laws. It is found in House Reports, volume 2, Nos. 2318–1446, 52d Congress, 2d session, 1892–1893.

The date was January 23, 1893.

Mr. RUSSELL. The Senator is making a very valuable contribution to this discussion.

Mr. ELLENDER. I have set forth a few of the reasons assigned by the committee back in 1893 for the repeal of the Reconstruction election laws—laws which would, as a practical matter, be reviewed by part IV of the bill now on the calendar.

In brief, these are the findings of the committee which conducted an investi-

gation of the operation of these laws in New York City.

Your committee, after a very careful study of the operations of the Federal election laws before election and on election day in the city of New York, are of the opinion that all of these laws have entirely failed to produce any good results in the direction of the purity of elections or the protection of the ballot box, and have been productive of such serious and dangerous results that they ought at once to be repealed.

The reasons for our recommendation for the repeal of these laws, based on our study of their operation and results in New York, may be classed under four heads. They ought to be repealed—

First. Because they result in no convictions of offenders, and are therefore useless to prevent or punish crime.

Second. Because they cause great expense and are fruitful of constant and continuing frauds upon the Treasury.

Third. Because they are designed to be used and are used only as part of the machinery of a party to compensate voters who are friendly to it, and to frighten from the polls the voters of the opposing party.

Fourth. Because under and by virtue of these laws the gravest interference with the personal rights and liberty of citizens occur, and voters are punished by arrest and imprisonment for their political opinions.

Those are quotations from the findings of the committee which conducted an investigation in New York City back in 1892.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. RUSSELL. Every day I live I am more impressed by the wisdom of those who wrote the Constitution of the United States; and the more I am frightened by the prospect of success on the part of those who attempt to lead us away from the plain meaning and purport of the Constitution.

The Founding Fathers knew that if we ever had elections controlled from the city of Washington, the Capital City of the country, it would result in the destruction of all the rights and liberties of the American people.

In designing the ship of state they sought to provide such a compartmental arrangement in our Government as to assure a construction similar to that which is found on a ship, for example; in providing for state sovereignty they sought to provide 48 compartments with watertight doors. If one hole is made in the hull, water can get into that compartment, but the ship can sail on. If another hole is made, another compartment is flooded with water, but the ship can still sail on. It is possible to patch up a few holes in the hull. However, if all the 48 watertight doors are broken down and the entire hull is open the water comes into the ship, and eventually it sinks.

The founders, in their wisdom, which seems to have been divinely inspired, knew that if elections were to be held under national law, completely controlled by Federal officers, the result would be a dictatorship and the destruction of our form of government. They put only one restriction on the conduct of elections of Federal officials by the several States. They required that all those who could vote for members of the most numerous house of the legislative bodies of the several States be permitted to vote in all elections in which Federal officers were chosen. That is the one restriction we find in the Constitution on this subject.

Mr. President, the Senator from Louisiana has performed a notable service in bringing to light, in the year 1957, the evil results that flowed from the attempt of the Federal Government to control elections over the whole Nation. We who come from the South have sought time and time again, in good faith, to point out that it is impossible to deny a constitutional right to a southern citizen without at the same time having the impact felt by every other citizen of the United States. Our rights in the South cannot be taken away without at the same time subtracting from the sum total of all the rights of all the American people. When you take away the rights of Southern States you degrade every State in the Union.

I cannot commend too highly the diligence and research which the Senator from Louisiana has expended in presenting this most illuminating speech in the Senate.

Mr. ELLENDER. Mr. President, I appreciate the Senator's statement very much. I have two very fine assistants who work in my office, Frank Wurzlow, Jr., and George Arceneaux, Jr. They have worked very diligently in providing me with data upon which I based what I have had to say today. I should like to give a little credit to them, because it is very much deserved.

Mr. RUSSELL. The speech of the Senator from Louisiana shows the result of very careful research and organization and I congratulate his assistants. Although the Senator may, in his great generosity, wish to give credit to those who helped him in gathering the facts, from serving with him for so many years, I recognize the language of the Senator. Although the facts may have been brought to his attention, the Senator from Louisiana himself wrote the speech.

Mr. ELLENDER. I say with all seriousness and concern, Mr. President, that since the effect of those laws would be equaled if not surpassed by the enactment now proposed, our Nation could look forward to another such reign of election terror.

Man is deemed to be a superior creature not only because he possesses a soul, Mr. President, but because he can learn by experience. Cannot the Senate today profit by the experiences of our predecessors under laws similar to those now proposed?

Once it is understood that the Federal election laws of Reconstruction days would be revived under the bill now on the calendar, then we should be wise enough to take judicial notice, so to speak, of our experience under those laws—an experience, I might repeat, which proved to be so bad in the city of New York alone that the statutes were repealed.

I call to the attention of Senators, House Report No. 18, of the 53d Congress, first session, the report upon H. R. 2331, the bill repealing the Federal election laws. I am going to quote briefly from that report, and I ask Senators to weigh the statements made by the House committee carefully.

These words were taken from a committee report written back in 1893. I should like to call these statements particularly to the attention of the Senator from North Carolina [Mr. ERVIN]. First, the committee said:

Many of these statutes also impose penalties upon the election officers of the States, in the conduct of elections, for a violation of the State laws. Was ever a more monstrous proposition written on the statute books of a free country? The power to make laws is a sovereign power. It carries with it the power to punish for the violation of such laws, but the two powers must be coordinate. The power that creates the law can inflict punishment for its violation, but no power can inflict punishment rightfully for the violation of a law which it never made. To attempt it, as has been done in the past, has resulted only in irritation, contention, and criticism of the government that has proposed it.

Would not precisely the same thing happen under this bill, Mr. President?

Second, the committee declared:

The object of legislation should be to prevent conflicts between the State and Federal authorities. These statutes have been fruitful in engendering them. Enacted in reconstruction times, when it was deemed necessary to carry out those measures, the purpose for which they were framed having happily passed away, we feel that they can not be too quickly erased from the statute books.

Are we going to turn the clock back to Reconstruction days, Mr. President? This is what the bill on the calendar would do.

Mr. ERVIN. Mr. President, will the Senator yield? If he would rather finish his remarks first, that would be agreeable to me. I do not wish to interrupt him.

The PRESIDING OFFICER (Mr. YARBOROUGH in the chair). Does the Senator from Louisiana yield to the Senator from North Carolina?

Mr. ELLENDER. I will be happy to yield in a moment, but first, I should like to have the Senator from North Carolina listen to a little more of this report. He may have some more questions to ask after I have finished reading from it.

Mr. ERVIN. Certainly.

Mr. ELLENDER. Mr. President, third, the committee found that those statutes reflected a lack of confidence in the States. That is what we have been talking about.

But we regard these statutes as chiefly inimical to the best interests of the people because they are in effect a vote of lack of confidence in the States of the Union. The inference is irresistible that they were enacted because of a lack of confidence in the honesty if not in the ability of the States to conduct their own elections.

Is that not the entire premise upon which the legislation we are being implored to take up is built?

The committee not only urged that the statutes be repealed, but recommended that they be wiped from the statute books. Here is the committee's language:

Let every trace of the reconstruction measures be wiped from the statute books; let the States of this great Union understand that the elections are in their own hands,

and if there be fraud, coercion, or force used they will be the first to feel it. Responding to a universal sentiment throughout the country for greater purity in elections many of our States have enacted laws to protect the voter and to purify the ballot. These, under the guidance of State officers, have worked efficiently, satisfactorily, and beneficiently; and if these Federal statutes are repealed that sentiment will receive an impetus which, if the cause still exists, will carry such enactments in every State in the Union. In many of the great cities of the country and in some of the rural districts, under the force of these Federal statutes, personal rights have been taken from the citizens and they have been deprived of their liberty by arrest and imprisonment.

Could any statement be clearer?

In conclusion, the committee stated:

Finally, these statutes should be speedily repealed because they mix State and Federal authority and power in the control and regulation of popular elections, thereby causing jealousy and friction between the two governments; because they have been used and will be used in the future as a part of the machinery of a political party to reward friends and destroy enemies; because under the practical operations of them the personal rights of citizens have been taken from them and justice and freedom denied them; because their enactment shows a distrust of the States, and their inability or indisposition to properly guard the elections, which, if ever true, has now happily passed away; and last, but not least, because their repeal will eliminate the judicial from the political arena, and restore somewhat, we trust, the confidence of the people in the integrity and impartiality of the Federal tribunals.

Mr. President, I now yield to the distinguished Senator from North Carolina.

Mr. ERVIN. The able and distinguished Senator from Louisiana has made a signal contribution to this debate by calling the attention of the Senate to the report of the committee which dealt with the reconstruction laws. I ask the distinguished Senator if the bill now pending does not go even further than the reconstruction laws in this particular; namely, that it attempts to have Congress delegate to a single Federal executive officer, the Attorney General, the autocratic power to strike down, at his election, State laws prescribing administrative remedies.

Mr. ELLENDER. I stated that in my main presentation.

Mr. ERVIN. Does it not go even further than Thad Stevens in reconstruction days?

Mr. ELLENDER. There can be no question about that.

Mr. ERVIN. I ask the Senator if the bill does not offend every one of the fundamental principles which he has pointed out by referring to the report of the committee dealing with the reconstruction laws?

Mr. ELLENDER. It does.

Mr. ERVIN. Does it not attempt, in the first place, to confer upon the Attorney General, a Federal officer, and a one-man Federal court the power to send State and local officials to jail if they fail to administer election laws or school laws, or laws relating to other local matters, according to the notion of the Attorney General of the United States?

Mr. ELLENDER. That is correct.

Mr. ERVIN. Can the Senator from Louisiana imagine a legislative proposal which would be more repugnant to proper Federal-State relations than the proposed civil-rights bill?

Mr. ELLENDER. Comparing the pending measure with the laws which were repealed, the proposed legislation is even more vicious than the Reconstruction election acts. At least, under those acts, violators were given a trial by jury as a matter of right. In this bill such a trial is denied. In addition, this bill would create a roving commission which could delve into the business of every citizen, turn its findings over to the Attorney General and his corps of attorneys, and help put many people in jail without a trial, as I understand.

Mr. ERVIN. As the Senator has so well pointed out, the bill even goes beyond the reconstruction legislation.

Mr. ELLENDER. Certainly.

Mr. ERVIN. It may be that the Senator from Louisiana and I, and those whom we have the honor to represent, in part, will end by thinking that Thad Stevens was a mild-mannered man.

Mr. ELLENDER. By comparison, he was an angel. If the investigation had been made in a State in the South, at which those laws were primarily directed, I would not have been surprised at the result. But it appears that the laws were being utilized to intimidate voters all over the country; this investigation dealt solely with conditions in New York City. I presume that when the laws were enacted, they were not supposed to affect the North to any extent, but were to mainly affect the South.

Mr. ERVIN. As the Senator has so well pointed out, the laws which the committee was condemning and asking to have repealed were laws passed within 2 years after what my geology professor, Collier Cobb, called the un-Civil War. Now it is proposed to pass an even worse law, 92 years after the last Confederate soldier laid down his arms in the thought that he and his descendants would be, at least, granted the rights of other citizens of the United States, and would not be reduced to the status of legal pariahs and third class litigants.

Mr. ELLENDER. I agree with the Senator from North Carolina.

Mr. ERVIN. Does the distinguished Senator from Louisiana agree with my opinion that if persons were not blinded by the hope of reaping some political advantage by advocating this bill, no man conversant with the American constitutional and legal systems would be willing to be caught with this civil-rights bill in his pocket at the bottom of a coal mine at 12 o'clock midnight during a total eclipse of the moon while the United Mine Workers were out on strike?

Mr. ELLENDER. I agree with the Senator.

I say, Mr. President, that no better description of the legislation now on the Senate Calendar could be composed today. Every objection urged by the House Committee on Election of President and Vice President and Representatives in Congress when it recommended repeal of the Federal election laws back on September 20, 1893, is just as valid, just as thorough, just as pertinent when applied to the bill on the Senate Calendar as it was with respect to those laws.

Mr. President, we must proceed upon the theory that not all who are charged with administering this bill in the future will be goodhearted men. We must reckon with the possibility of some being overly ambitious and unscrupulous. We should heed the words of Thomas Jefferson who cautioned:

In questions of power let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Let us not forget, Mr. President, that the proposed legislation does not state that the Federal Government must exercise the power it proposes to award. On the contrary, it merely vests the United States Government with the authority to bring these suits for injunction if the United States desires to do so.

In whose hands would the decision rest as to whether or not to commence a suit under the bill? In the hands of the Attorney General.

Mr. President, the Attorney General—in fact, any attorney general—is an appointed official. Usually the job is awarded to a prominent advocate of the candidacy of whoever wins a presidential election; it is, to be blunt, a grade-A political plum.

If it is the Senate's wish to place the power of total harassment in the hands of a political appointee, all the Senate has to do is approve the bill.

I need not remind Senators that in connection with part IV, the discretion proposed to be vested in the Attorney General could be used for purely partisan purposes if he so desired. Again I point no accusing finger at our present Attorney General, Mr. Brownell. However, I repeat again that we must proceed upon the theory that some future occupant of the office of Attorney General may not possess a heart so generous or a soul so pure as Mr. Brownell's. We must take into consideration the fact that this power could be misused.

The possible combination of a tyrannical Federal judge and a political-minded Attorney General could wreck free elections in this country as quickly and efficiently as the mailed fist of communism.

They could do so by stretching to its most infinite limits the power granted in the bill to enjoin and then punish any person who might be about to attempt to intimidate another.

Come, Senators; think on this matter. How long would it take for our Republic to be smashed should this occur? How long, how many weeks, would be required before we achieved the most advanced of all Communist desires, the one-party state?

I will tell the Senate how long.

It would take just as many days as would be required to build concentration camps to house those imprisoned for contempt.

I have scanned the record on this measure compiled by both the Senate and House subcommittees. It is replete with such vague things as:

We do not plan * * *.

We do not contemplate * * *.

I think the caliber of the Commission will undoubtedly be such that * * *.

By and large the actions which the Attorney General would bring * * *.

This kind of answer has not provided the kind of record upon which legislation as far-reaching as that proposed in the bill now on the calendar should be built. We cannot honestly and sincerely engage in the process of developing wise or prudent legislation when we are placing the basic rights of our people at the whim and caprice of political appointees.

Mr. President, those of us who oppose this measure do not enjoy raising issues such as those I have raised in this address. We are not seeing bogey-men under the bed. We are merely doing our utmost to discharge the oath we took when sent to the Senate by the citizens we serve.

I warn the Senate that hidden dangers lurk in this measure—in its broad language, in the raw and naked power it vests in a political appointee and a Federal judge.

We face the awful prospect of one-man rule—not only in the conduct of our elections, but in the every-day affairs of our people.

Do not make the mistake, I warn my colleagues, of trusting any one man with such great power.

Remember Germany; she trusted Hitler. For that trust, she was rewarded with Dachau and Buchenwald.

Remember Russia; she trusted Lenin. For that trust, the Russian people were rewarded with blood baths, purges, the secret police.

Remember China; she trusted Mao-tse Tung. Her reward was mass torture, starvation, the erasing of the identity of the individual.

Whom, Mr. President, can we trust? Point out one human being in whose hands you would place, unchecked, the power to control the election of public officials, the direction of your life.

There is no such man living; and I feel sure none will be born.

## ORDER FOR RECESS UNTIL 10 O'CLOCK A. M. ON MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today, it stand in recess until 10 o'clock Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

## POSSIBILITY OF ADJUSTMENT OF SCHEDULE FOR NEXT WEEK

Mr. JOHNSON of Texas. Mr. President, I have conferred with the distinguished minority leader, the distinguished senior Senator from Georgia [Mr. RUSSELL], and other Senators interested in the debate. It now appears that, unless there are other speakers who have not notified us, only 7 or 8 additional Senators desire to make statements on Monday and Tuesday. Therefore, it may be possible on Monday to adjust our schedule for Tuesday so as to have the Senate convene at 10 o'clock on that day, and it may not be necessary to remain in session as late in the evening as indicated. We are very anxious to accommodate each Senator and give him an opportunity to express his views. But we have made good progress and that is the reason why we are adjusting our schedule. I give all Senators notice that we may meet at a little later hour on Tuesday, and may not stay in session late on Monday as previously indicated.

## CIVIL RIGHTS

The Senate resumed the consideration of the motion of Mr. KNOWLAND that the Senate proceed to the consideration of the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. McCLELLAN. Mr. President, I wish to speak in opposition to the pending motion that the Senate proceed to the consideration of H. R. 6127.

Ordinarily, Mr. President, the bills on the calendar of the Senate are taken up by the Senate and are made the pending business by unanimous consent, or they are brought up by way of motion, without serious opposition to having them considered. But the pending motion that the Senate proceed to the consideration of H. R. 6127 has—as all of us have observed—created an extremely extraordinary situation in this body. It has evoked great controversy. It has inspired—and still inspires—serious and profound debate—a debate which may become, and I think will become, quite extensive, intensive, and extended before any final action will be or can be taken on the measure by the Senate.

Mr. President, when a bill has followed the regular, normal, and usual course in reaching the Senate Calendar, when it has been properly studied and processed by the appropriate committee, and when a committee report accompanies the bill, together with the committee's recommendation that the bill be passed, there would have to be very serious and compelling reasons before I would seriously oppose a motion to have the Senate proceed to its consideration, at least when it was apparent that a majority of the Members of the Senate wished to have the bill considered. But those strong and compelling reasons are present in this instance; and I propose to state what they are.

In this instance, there is also present a further and sufficient reason for opposing consideration of the bill by the Senate at this time; and that is that this so-called civil-rights bill—the one now proposed to be considered by the Senate—has not been processed by a Senate committee, and today is on the calendar of the Senate because the Senate ill advisedly and unwisely adopted the precedent-shattering course of bypassing its regular standing committee having jurisdiction of measures in this field.

Mr. President, at this point I wish to digress long enough to state that the action of the Senate in placing the bill on the calendar constitutes a precedent which will plague the Senate and, I may say, embarrass the Senate on many, many future occasions.

As a result of the course which has been followed in this case, there is no Senate committee report on the bill; there are no amendments coming to the Senate from the appropriate Senate committee, in order to meet many of the valid objections to the bill.

Because the appropriate Senate committee has not been able to study the bill and has not been able to make recommendations with respect to amendments, the result is that today the Senate is debating a measure which was passed by the other body of the legislative branch of the Government, but was not properly considered and was not adequately discussed, under the circumstances which, as we know, obtain in that body, where the Members who have strong convictions and logical arguments to present do not have the time or opportunity to present them.

So, Mr. President, the Senate is now undertaking—and, in fact, already has done so—to bypass and disregard the proper and usual processes customarily followed in bringing proposed legislation before this body. The Senate is being asked to swallow the bill as it comes to the Senate from the other body, without consideration and without recommendation through the Senate's own committee processes.

But, Mr. President, the Senate and its Members do not yet know all that is contained in the bill. The people of the United States do not yet know all that is in the bill. That is the tragic result and the great evil of handling the bill in this way. The Senate has engaged in 5 or 6 days of debate on the bill; and each Senator who has discussed it has pinpointed new thoughts about it and has indicated new dangers which are inherent in it.

In the Senate there are many Members who can give the bill proper study. It would take them a whole week, spending 10 hours each day, to say about the bill all that should be said about it and all that it is necessary to say about it if the Senate itself and the people of the country are to become properly and adequately informed, in order to make a judicious and wise determination.

Mr. CAPEHART. Mr. President, will the Senator from Arkansas yield to me?

Mr. McCLELLAN. I am happy to yield to my distinguished friend, the Senator from Indiana.

Mr. CAPEHART. Can the able Senator from Arkansas explain to the Senate just what the purpose of the bill is?

Mr. McCLELLAN. Mr. President, no one yet has been able to explain the bill and its purpose. Those who advocate the bill cannot do so. The bill has a title. The President and others say it is a voting-right bill. If that were all there was to the bill, it would not be necessary for Senators to consume very much time in debating it. I know of no person in my State—either black or white—who meets its qualifications. Those who urge passage and enactment of the bill will not state what is in it.

Mr. CAPEHART. Is not the purpose of the bill to make sure that every person in every State shall have the right to vote?

Mr. McCLELLAN. I have heard that statement so often that I am embarrassed any time anyone makes it, and I wonder if those who make the statement do not know anything more about the bill than that. If the right to vote were the only thing involved in the bill, there would be no objection to it in my State. Negroes vote in my State. They are encouraged to vote.

Mr. CAPEHART. Is there any State in which the right to vote is denied?

Mr. McCLELLAN. I referred to my State. So far as I know, Negroes have a right to vote in every State. They have the right to vote. If the law is not being enforced, the remedy is to enforce the law, and not destroy or impair our system of government. We should not burn down the building merely to kill one rat.

Mr. CAPEHART. I believe there are five States that still require the payment of a poll tax as a prerequisite for voting. I believe the number is five.

Mr. McCLELLAN. Yes.

Mr. CAPEHART. Would the bill repeal the requirement that a poll tax be paid?

Mr. McCLELLAN. It would take much more than an answer to that question to say what the bill would do. There are powers embodied in the bill which might make it possible to go that far. It might be possible for the Attorney General to get a decree from a court to impose an injunction against the requirements of a poll tax, and declare it illegal, and declare illegal an attempt by State officers and election officials to collect a poll tax, even though that requirement might exist in the State constitution. That is how far the bill goes.

Referring to the question of the poll tax, my State still has the requirement of the payment of a poll tax. I do not see anything so evil in that requirement.

Mr. CAPEHART. I might say my own State had such a requirement until a few years ago.

Mr. McCLELLAN. I do not see anything so evil in it and I will tell the Senator why. In Arkansas the requirement is the payment of $1 a year. One has to pay a poll tax for a year in order to vote. The law applies to Negro and white, Catholic and Protestant, and everyone else alike. That $1 goes into what is known as a common school fund in the State. It is apportioned according to school population, and the Negro gets the benefit of the $1 the same as the white man does.

Mr. CAPEHART. My question is, Does the bill require the State of Arkansas to repeal its poll-tax law?

Mr. McCLELLAN. I do not know. I am willing to wager the Senator could not get an answer from the Attorney General as to whether it does or not.

Mr. CAPEHART. I think possibly that is one of the big questions that ought to be answered: Does the bill require the State of Arkansas or any other State to repeal its poll-tax law? My understanding is that the bill does not, and that the States would continue to make their own laws.

Mr. McCLELLAN. I hope that is true, I will say to the Senator, but the bill needs to be studied, explained, and understood. We cannot take for granted what it may do or may not do.

Mr. CAPEHART. In other words, the position of the Senator from Arkansas is that, while the bill is intended to give everybody the right to vote, the Senator is questioning the language of the bill and what it would require.

Mr. McCLELLAN. That is one aspect of the question. So far as the right to vote is concerned, I say the States should prescribe the qualifications, so long as there is no discrimination.

Speaking of the poll tax, I do not think it is a bad idea for a citizen to meet some minimum requirement of citizenship in order to vote. Registration may be all right, but last year we had a proposed constitutional amendment in Arkansas to repeal the poll tax and institute a registration system. The people of Arkansas rejected the proposal. I took no part in it. I care not whether there is a poll tax requirement or a registration requirement, so long as it is nondiscriminatory.

Mr. CAPEHART. The position of the Senator from Arkansas is that, regardless of what the laws may be, if the laws are not being enforced something ought to be done about it, but what is provided by the bill is not the way to do it. Is that correct?

Mr. McCLELLAN. That is correct.

Mr. President, I am not concerned about the poll tax in my State. The people of Arkansas have voted for it. That is not an important issue. As I pointed out, a registration system might well be adopted. There would be no objection to it so far as the Senator from Arkansas is concerned.

Getting back to the bill, Mr. President, this is neither the time nor the place for a complete and exhaustive analysis of the bill. We are discussing primarily a motion to take up the bill, the question whether the Senate should consider it, and the time for a complete analysis of it will be when the bill is read for amendment. However, as I pointed out previously in my remarks, when there is opposition to taking up a bill on the calendar there should be compelling reasons for such opposition. Therefore, so the Senate and the people of the United States may understand something of what is involved in this bill, and why I oppose its consideration without proper processing, and so that they may realize the desirability of taking corrective action with respect to the bill, and curing at least some of its great faults and defects, I propose to discuss here and now some of the defects in the bill and some of the objections to its enactment.

First I should like to refer to some matters of principle. The name "civil rights" is an attractive label to place on a bill, and it holds many people today rather as captives to the idea. Just place a "civil rights" label on a bill, regardless of what is in it, and it immediately attracts and enlists support from some sources. But, Mr. President, no bill should be enacted, no matter what the label, without an analysis of it and an effort at least to understand not only what it is claimed by its proponents will be the result of its enactment and what result is intended, but actually to understand what its effects would be and what could be done if it were enacted, under its terms and provisions.

Mr. President, in my judgment, this bill embodies, and the arguments for it rest upon a great deception. It is presented as a bill to protect voting rights. It is, in fact, much more than that. It is a device to authorize forcible integration of the races in the South, through the use of the Armed Forces of the United States, through the jailing of school trustees and other public officials, through the terrorization even of private citizens, with a view to breaking up and silencing the expression of any opinion in opposition to the program of forced integration.

Mr. President, if this bill does that—and I believe it does—then I say to this body and to the people of this country that that amounts to despotism—despotism, naked and ugly.

It is what the bill really stands for in its present form that we should undertake to determine. When this bill was first presented last year, Mr. President, after a brief study of it I told the people of my State that, though we had had many civil-rights bills in the past, this was one of the most vicious, most comprehensive pieces of such proposed legislation ever introduced in this body.

This is one of the most flagrant examples of an attempt to legislate by subterfuge that I have ever witnessed.

Mr. President, I wish to mention another point of principle. Before I pass to that, however, I submit that while I have mentioned the race issue, I believe I am about as free from prejudice toward the Negro race, toward any race, toward any religion, toward anyone's station in life, as any other Member of this body. I have lived among the Negro race all my life. I cannot recall, though I have tried to, that I ever had an altercation or even had any serious disagreement, any trouble, or problem, with a Negro, or Negroes as such, in my life. I do not, therefore, speak from the standpoint of prejudice or enmity. But, Mr. President, the principles which are involved in this bill, and its far-reaching consequences if the provisions of it, as they are now, are enacted into law, are what I am concerned with.

The bill ignores the basic constitutional principle of the preservation of States rights, the preservation of the power of a State over matters such as public order within its own borders. That is another of the major evils of the proposed legislation. To overthrow the rights of the States in any area is a step—and a long step, Mr. President—toward complete federalization, toward statism, toward totalitarianism.

Another point of principle, Mr. President, is that the bill would rob citizens of the right of trial by jury. Much has been said about that already, but it cannot be overemphasized. There are those who do not care. Some do not care what means they employ to gain their particular objective in the enactment of this proposed legislation. But, Mr. President, there are in America today those who do care—who still care about these basic, fundamental, constitutional

rights guaranteed to us by our Founding Fathers.

By now there should not be any doubt in the mind of anyone, in my judgment, about the underlying purposes of the proposal in this bill for substituting government under Federal injunction for government under State law. The purpose is to avoid jury trials. This proposal for government by injunction insults the people of the South, because support of this provision of the bill necessarily implies the belief that the people of the South cannot be trusted as citizens to act as jurors, that they cannot be trusted to sit in judgment on fellow human beings, even though this is one of the highest privileges and duties of citizenship.

I know that many supporters of the bill deny that they have any such feelings or that they intend any such implications, but, notwithstanding that, it must be perfectly clear by now to every Senator who has studied the bill and followed the debate that if there is not mistrust of the people of the South, and if there is not mistrust of southern juries, then there is no justification, no reason whatsoever, to support this proposal, which would establish government by injunction, the whole purpose of which is to avoid jury trials in civil-rights cases.

That has been made clear repeatedly, over and over again, in the course of the discussion. Even some of the proponents of the bill, Mr. President, have been honest enough and ingenuous enough to admit that that is exactly what they want to do.

Mr. President, I had in mind, when I told my people last year in public addresses at home about the viciousness of this bill, what I shall now refer to. In testimony before the Senate Committee on the Judiciary on May 25, 1956—which will be found at pages 125–126 of the hearings—Clarence Mitchell, Director of the Washington Bureau of the National Association for the Advancement of Colored People, plainly admitted this purpose to avoid jury trials. He said:

I think we ought to make it very clear on the record what everybody ought to know that our organization has been trying to get hearings and actions on this bill ever since the Congress started and many conversations have been held with various people trying to get action.

I think there is enough glory to go around and blame to go around as to who is responsible. We don't want to fix blame. We don't want a half-loaf or three-quarters of a loaf; we want the whole thing.

Mr. President, I think we should bear in mind that the advocates of the bill, those who are really sponsoring it, do not want any compromise; they want the whole loaf. The purpose of this discussion is to analyze the bill so as to determine, if we can, exactly what composes the whole loaf.

I continue to quote the testimony of Mr. Mitchell:

We don't interpret S. 3718 as a half loaf. The Attorney General made very clear the practical situation we are confronted with. He used the illustration of Mississippi where we have an airtight case of individuals being denied a right to a voting to a grand jury and you cannot get an indictment. If you get an indictment before a grand jury you can't get a conviction.

So, Mr. President, the whole theory is to circumvent our system of jurisprudence, which guarantees the right to trial by jury, and invoke instead trial by the Attorney General and a Federal judge.

The Senator from Missouri [Mr. HENNINGS] then said:

That is what I said to Mr. Wilkins and he said he did not remember.

Then Mr. Mitchell continued:

Yes. This legislation, as I understand it, does not lack in strength—

He is correct. It does not lack in strength—

because as I understand judicial procedures correctly if the Attorney General finds that there is a violation of the law and if a court duly constituted issues an injunction telling people to cease from interfering with the right to vote and they continue to do so, they may be convicted for contempt and there would not be the hurdle of these juries that refuse to convict and grand juries that refuse to indict.

Mr. President, I ask, when did the right of trial by jury become a hurdle in America? I thought it was a barrier to safeguard the rights, lives, liberties, and property of the people. But the strongest advocates of the bill today term it a hurdle.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to my distinguished friend from North Carolina.

Mr. ERVIN. I desire to ask the distinguished Senator a question, provoked by the statement which he has just read, to the effect that the Attorney General could act whenever there was a violation of law. I ask the distinguished Senator if the Attorney General has to wait until there is a violation of law. As a matter of fact, does not the bill provide that whenever he thinks someone is about to get ready to commence to begin to discriminate against anyone, the Attorney General can bring the suit at that stage?

Mr. McCLELLAN. The Senate is definitely correct. I do not know what kind of crystal ball the present Attorney General has, or what kind the next one will have; but as I interpret the bill—and I do not think I am wrong—all it is necessary for the Attorney General to do is to decide that a law may be violated. He can then ask the court to grant an injunction against violation of the law. He does not have to offer proof. The bill provides that he may act if there are reasonable grounds for believing that a violation of the law is about to occur. It does not require any standard of proof to establish those grounds. What would be required? In my judgment nothing would be required under the terms of the bill except for the Attorney General to file a petition so stating; and, without evidence, if the court wished to act upon that petition alone, he could do so, and issue an injunction.

Mr. ERVIN. If the Attorney General is unwilling to wait until he obtains some facts as a basis upon which to bring suit, and sues on the theory that someone is about to get ready to commence to prepare to do something wrong, he will have to employ some very potent prophets and soothsayers, will he not?

Mr. McCLELLAN. Does the Senator not agree with me that the whole idea is absurd and silly?

Mr. ERVIN. Absolutely.

Let me ask the Senator this question: The advocates of the bill say that it is beautifully framed, because it would prevent people from committing crimes. One part of the bill provides that the Attorney General may bring a suit for preventive relief when people have already done the things which would be forbidden by the statutes proposed to be amended. Can the distinguished Senator tell me how the Attorney General can prevent a crime which has already been committed?

Mr. McCLELLAN. Of course he cannot. If this is to be the new approach to law enforcement in America—and we are talking about civil rights and personal rights—why not issue a broad injunction applicable all over the country, against the commission of any crimes? It seems to me that the protection of the virtue of womanhood in this country is a pretty strong civil and personal right. I do not know who may commit rape tomorrow. I do not know who is thinking about it, any more than the Attorney General can tell, under the proposed statute, who is thinking about violating the election laws. But if we are to prevent crime by injunction, and by a devious way of getting around trial by jury in that process, let us blanket out all crime. Let us enjoin all of it. Let us do away with juries. If anyone commits a crime, bring him before the court and charge him with contempt.

Mr. ERVIN. If I were able to accept the thesis of the advocates of the bill I would go just a little further. I would arrange things so that an injunction could be issued not only to prevent the commission of crime, but also to prevent the commission of sin.

Then, following the idea of the advocates of the bill, I would provide that when a person violated a part of the order, namely, the injunction against committing a crime, the Attorney General would get him; and when he violated the command not to sin, the Devil would get him. [Laughter.]

Mr. McCLELLAN. Sometimes people think these discussions are facetious, but they are not. They simply point up the fallacy of this kind of approach to serious problems.

Mr. ERVIN. They illustrate how much solemn nonsense there is in the bill.

Mr. McCLELLAN. We shall never find all of it.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am very happy to yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. I am sure the Senator has seen the list which was placed in the hearings, and which has been printed in the CONGRESSIONAL RECORD, of 28 different cases in which the injunctive process may be used and contempt punished. I am sure the Senator, being a

fine lawyer, differentiates between most of those cases and this type of case. I ask the Senator if he believes that there may be, if not a deliberate move on the part of a great many persons, certainly an indifference toward a breaking down of the jury system? Is it not true that some persons argue that the jury system itself is slow and inefficient, and that they have become impatient with it and are trying to break it down?

Mr. McCLELLAN. That is true. Democracy is slow and inefficient in many respects as compared with a totalitarian state, but it is that slowness and due process which protect the liberties and rights of the people.

Mr. SPARKMAN. That protection is interwoven into our very system of Government, involving checks and balances.

Mr. McCLELLAN. Absolutely. There are those who criticize the jury system. I have known juries to make mistakes. Some of them have been made against me. Perhaps I have been fortunate enough to have had some mistakes by juries made in my favor.

Mr. SPARKMAN. I am sure the Senator always accepted the situation with good grace, even when the decision went against him.

Mr. McCLELLAN. Certainly.

Mr. SPARKMAN. Because he recognized that protection as a part of the democratic process, and the very basis upon which our fine judicial system has been built.

Mr. McCLELLAN. Even the process of legislation in a democracy is slow—and thank God it has been slow in this instance. There are those who, if they could have done so, would have eliminated this right by decree; and had there not been the right of unlimited debate in the United States Senate, which gives Senators an opportunity to inform and educate the people as to what is in the bill, we might have suffered an affliction long ago.

Mr. SPARKMAN. I wonder whether the distinguished Senator from Arkansas read in the press the report of the speech made by the President of the American Bar Association in Texas, when he spoke, as I recall, to the Texas Bar Association only a few days ago. A part of the speech was read into the RECORD on Monday of this week by the distinguished Senator from North Carolina [Mr. ERVIN]. The theme of his speech—and, as I recall, the gentleman comes from Pennsylvania, or at least from a Northern State, and it is not a southerner—was on the subject of the tendency in this country to break down the jury system. Then he proceeded, in a very fine and strong manner, to defend the jury system.

Mr. McCLELLAN. I heard the distinguished gentleman—I do not recall his name—on a television program about a week ago. I do not believe that any manmade system of government is perfect. I do not believe we will ever reach perfection in that regard. There are imperfections, of course, in the jury system, which finite man and the wisdom of finite man cannot correct. However, fewer injustices occur in the administration of law under our jury system than would occur if we were to destroy the system and place the whole power and responsibility of judging facts and enforcing law in the hands of any one judge in any one district.

Mr. SPARKMAN. I am sure the Senator has heard from time to time, and has read from time to time, in connection with the question before us, the attack on the jury system, and that the way to unclutter the great dockets of our courts, and the way to speed things up, is to do away with jury trials and to let judges make the decisions. If we thus seek to save time and bring about so-called efficiency in government, will it not inevitably lead to one-man government and dictatorship?

Mr. McCLELLAN. There can be no question about that. If we did away with the present jury system, that would be the result. There are those who suggest a professional jury system, the hiring of people and making them officers of the Government, or the creation of a professional jury system.

Mr. SPARKMAN. And perhaps having the jurors roam around the country, in the way the proposed commission is supposed to operate.

Mr. McCLELLAN. Yes; a commission is provided for in the bill. I shall hardly have time to make reference to it today; but before these discussions are over I may take occasion to pay my respects to the commission proposal. I should like to proceed with my discussion of the principles of the bill.

I have referred to the testimony of a witness before the committee who regarded juries as a hurdle which should be removed. We know now, from the director of the Washington bureau of the National Association for the Advancement of Colored People that the object of the provisions in the bill for government by injunction is to rob individual States of their power and jurisdiction to try offenders against their laws before juries made up of their citizens. As the director of the Washington bureau of the National Association for the Advancement of Colored People made perfectly clear, the Southern States—and that is what he referred to, Mr. President, the Southern States—are the target of this drive to rob States of their constitutional rights and powers.

Why do they not realize that the Civil War is over, and has been over for a long time? Why do they still continue to attack and smear the South? It makes me a little sick, Mr. President, when I see members of the Democratic Party, able as they are, stand up in the Senate and try to smear the South. There would be no Democratic Party today if the South had not saved it. When all else was against the Democratic Party, and when not another State in the Union was going Democratic, the South saved the Democratic Party. Yet some of the most vicious attacks against the South today are coming from men who wear the Democratic label. Well, we must meet the challenge from wherever it comes.

I can tell Senators one thing, however, and it cannot be refuted. It is that the South, with its Negro population, and with its race relations, has under the most extreme difficulties and handicaps, made great progress since the Civil War came to an end. If we can keep out the meddlers and the agitators, and stop the interference, and eliminate the influences which care nothing for either race, except from the standpoint of political expediency—if we can eliminate all that, we will not have any racial problem in the South so far as the Negro race and the white race are concerned.

Let us go a little further now, Mr. President.

Patrick Murphy Malin, executive director of the American Civil Liberties Union, was another who made crystal clear this purpose of eliminating jury trials. Mr. Malin testified before the Judiciary Committee in 1956, and his testimony will be found at page 137 of the civil-rights hearings held in that year. This is how Mr. Malin admitted the nefarious purpose of robbing southern citizens of their right to trial by jury:

> It's not astonishing that many local citizens, who compose even Federal grand and trial juries, regularly refuse to indict or convict their friends and neighbors—official or private—for offenses which they themselves at least condone. But no self-respecting government, constitutionally responsible for seeing that even its humblest citizen have equal protection of the laws, can let things rest there. Hence it would seem to serve both wisdom and conscience to have the Federal Government empowered to ask a Federal judge for the declaratory relief of an injunction against a threatened violation of a civil right.
>
> If the injunction was disobeyed, the judge would cite the violator for contempt of court, whose punishment while not severe, is real.

Mitchell and Malin are not the only proponents of this bill, of course, who have admitted openly the objective of eliminating the right of trial by jury. Others have admitted it openly. And the fact is that everybody who knows very much about this bill at all knows that the purpose of these proposals with respect to injunctions is to take the question of guilt or innocence away from juries: in other words, to deny persons accused of crime the right of trial by jury. This is, I submit, a most unworthy objective, no matter what high-sounding reasons may be given for it.

Mr. President, I state that the enactment of the bill now being discussed would be the greatest blow that has ever been struck against our constitutional and traditional jury system.

Mr. THYE. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I am very happy to yield.

Mr. THYE. I am not so familiar with the South as I should like to be. The Senator from Arkansas has been a prosecuting attorney in his State. I should like to ask him whether, as the usual thing, he selected both white and colored jurors in making up a jury.

Mr. McCLELLAN. That is done in the South, and in my State.

Mr. THYE. Would the Senator, as a prosecuting attorney, as the usual procedure, draw a jury composed of as many colored people as white people?

Mr. McCLELLAN. No; that would not be done, naturally, because of the per-

centage difference in the population as between white and colored people. I think the best estimate on that point is that 22 percent of the population now are Negroes, and about 78 percent are white. I think the percentage of whites to Negroes who serve on Federal juries is about the same.

Mr. THYE. In the event of a violation in the field of civil rights, in a case involving a colored person against whom discrimination had been practiced by a white person, if the jury were composed entirely of white persons, would not a person be justified in believing that the jury might in some manner have a bias?

Mr. McCLELLAN. Speaking for my State, I could not guarantee the integrity of every person who might sit on any jury, and I doubt if the Senator from Minnesota could. But if the Senator will permit me to comment on his remarks, he referred to the fact that I once served as a prosecuting attorney. I may say, without any reservation, that that was in the days of prohibition, and I had to prosecute a good many persons for "moonshining," selling whisky, and so forth. It was much more difficult to get a white jury to convict a Negro than it was to get a white jury to convict a white man. If I may refer to one particular instance, two Negroes were caught at a still. A white jury turned them loose and convicted the white man who had hired them, on his statement that they were hired. I had that problem to contend with. I knew that apparently they were positively guilty.

But in the South, if a white jury gets the impression that someone has imposed upon a helpless Negro, they will immediately find the Negro not guilty. I have seen that happen many times.

If we are going into these matters a little, I have said that I have no prejudice against the Negro race. When I was practicing law, I defended a number of Negroes who were not able to employ a lawyer. I defended them without pay, because I believed they were innocent.

Mr. THYE. The distinguished Senator from Arkansas is not only known to be a great attorney, but he is also known to be a very able prosecutor. I am not asking my questions in an effort to cast any reflections. I am trying to penetrate the question of the judicial provision that rests in the bill. It is a matter, as I see it, dealing with the civil-rights question.

It is late Saturday afternoon, and here on the floor of the Senate my concern is that every man in America shall have equal rights as a citizen, I care not of what race, color, or creed he may be. That is the first point. The first premise of my public service is to try to make it possible that each one shall share in the blessedness of this Government equally with all others.

In the event a person is not privileged to vote, he being a citizen, I shall endeavor to make it possible for him to vote. That is the major portion of the legislative question with which I concern myself. That is why I asked the question relative to the jury.

In the event a local question were involved in a case, or an individual were not given the privilege to vote because of some restrictions having been imposed locally or statewide which prohibited that person's right to vote; in the event the case came to trial before a jury, I would expect them to do right, yet they might believe they were doing right if they upheld the laws of the community or State, even though those laws denied the right of the individual to cast a vote. That is the only issue I see in the question of a jury versus a judge trial.

Mr. McCLELLAN. I cannot, without knowing the facts, say what a jury might do a year from now or 10 years from now, but I would risk justice in my State before the juries there. I would risk defending a Negro's right in Arkansas before a completely white jury anywhere in the State. I would risk defending him. I believe he would get a fair trial. But now he can be assured of having people of his own race on the jury.

We do not necessarily have the extreme problem to which the Senator from Minnesota has referred. There are some counties that contain no Negroes. There are no Negro citizens in some counties of the State. But where Negroes are located, they are chosen to serve on petit juries and grand juries, and certainly to serve in the Federal courts. In the Federal courts, the service of Negroes, I think I may say without any reservation whatsoever, is somewhat on the basis of the population, percentagewise.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SPARKMAN. I certainly agree with the statement of the Senator from Arkansas concerning white juries leaning backward in the event they thought that an accused Negro had been imposed upon. Every person who has practiced law in the South knows that to be true.

Mr. McCLELLAN. We not only know it, but we respect it, if we expect to win lawsuits.

Mr. SPARKMAN. The Senator from Minnesota was talking about the fear that a Negro might have to be tried by an all-white jury. Is it not true that the Negro does his best to make certain he gets an all-white jury? He is the one who strikes off the Negro jurors.

Mr. McCLELLAN. That has been my observation.

Mr. SPARKMAN. It has certainly been mine.

Mr. THYE. Mr. President, will the Senator further yield?

Mr. McCLELLAN. I yield.

Mr. THYE. I do not want the RECORD to show that I questioned whether the jury would at all times be composed of white persons; I only referred to the jury that might be considering a civil-rights violation. It is only in that respect that I raise the question. In other cases, such as a criminal case, or any kind of jury trial, or any court action which would involve anything other than civil rights, there is no question in my mind that the juries would be composed of white as well as colored persons.

But in a case under this bill, involving strictly a violation of civil rights, I have a reservation as to whether the prosecuting attorney would be drawing a panel consisting of a percentage of colored folk, if a colored person justly complained against the community or the State on the ground that he had been denied the right to cast his vote. I think that is the only question that is involved in the civil-rights issue of this bill. The bill deals only with that; it does not deal with criminal statutes, statutes regarding theft, or any other statutes or public laws. The bill deals only with the question of whether a person has been denied his right as a citizen in his community.

Mr. McCLELLAN. Mr. President, I believe the Senator from Minnesota should study the bill further. The bill is broad and very inclusive. It goes far beyond the right to vote.

Mr. THYE. Mr. President, I have studied the bill; in fact, I have a complete digest of the bill, paragraph by paragraph.

I am not a lawyer. I have great respect for the insight of Senators who are lawyers into the legal meaning of a word or phrase or even into the legal meaning of a simple sentence which on its face might seem perfectly clear to a layman. Certainly, one having a trained legal mind can detect meanings which I cannot.

But I have had a careful digest of the bill prepared; and I myself have a few reservations about the bill. I say that without hesitation.

Mr. President, I have listened carefully to the speeches of my colleagues on the bill. I have tried to consider carefully every word spoken on the bill by my colleagues who have legal training. But I believe I am capable of using ordinary commonsense in regard to the everyday actions of men. I am rather familiar with the actions of men, because even when I was 13 years of age, I was pretty much on my own.

Mr. President, if a case involving an alleged violation of a civil right were being tried, and if the case were based on an allegation that a colored man had been denied the right to vote in a certain community, if a Senator who had had legal training were serving as counsel in the case, I believe he would be very careful in regard to the selection of the jury.

Mr. McCLELLAN. I believe that any lawyer, handling any case at all, would be careful as to the selection of the jury. Any lawyer who represents a client has the duty of using his best judgment and his best ability in regard to the selection of a jury to consider the facts. That is true in any case.

So far as Arkansas is concerned—I do not undertake to speak in regard to any other State—I have not heard, in years, a complaint by any properly qualified Negro who presented himself to vote at the polls. By "properly qualified," I mean one 21 years of age and having paid the poll tax. Those qualifications apply to all voters in Arkansas—white, as well as black. Any citizen of Arkansas who meets those qualifications can vote.

In the last general election in Arkansas, I believe the total number of voters was approximately 370,000 or 380,000, in round numbers; and from 50,000 to 60,000 or 65,000 of those who voted were Negroes. They voted in the

primaries, too. They are voting in both the Democratic and Republican primaries; and I would be surprised if many of them did not vote for Mr. Eisenhower in the general election.

Mr. THYE. Mr. President, Arkansas has made greater gains, in recent years, than has almost any other State of the Union. I first became definitely acquainted with that fact when I was serving as Governor of Minnesota and had occasion to examine the Arkansas bonds which Minnesota held, and had occasion to examine the financial statements relative to the solvency of Arkansas and the progress Arkansas had made. That was several years ago.

I have watched Arkansas grow economically as well as socially. I believe that only about two counties in Arkansas do not have mixed or integrated schools.

Mr. McCLLELAN. Mr. President, I will say that integration is making progress there.

Mr. THYE. Yes.

Mr. McCLELLAN. We ask those who do not live in Arkansas to leave us alone; we ask them not to attempt, by means of a bill of this kind, to start agitating and stirring up trouble in our State. Such a development will do injury and do injustice to the people of both races. They are making progress, and they will solve the problem and will work it out.

Mr. President, let me point out that the South does not respond very well to force and compulsion. We who live in the South are made in that pattern, and we do not like attempts at force and compulsion. Those who do not live in Arkansas should leave us alone. If that is done, we shall keep marching on the road of progress.

Mr. THYE. Mr. President, certainly Arkansas has shown excellent judgment in the selection of those she has sent to the United States Congress.

Mr. McCLELLAN. I thank the Senator from Minnesota.

Mr. ERVIN. Mr. President, will the Senator from Arkansas yield to me?

The PRESIDING OFFICER (Mr. SCOTT in the chair). Does the Senator from Arkansas yield to the Senator from North Carolina?

Mr. McCLELLAN. I yield.

Mr. ERVIN. Mr. President, I should like to say that they were sent to the Senate by persons like themselves.

In answer to our friend the distinguished Senator from Minnesota, let me say that the proof of the pudding is in the eating thereof.

The most recent test which gives the best answer to the question asked by the Senator from Minnesota is this: About 5 or 6 years ago, or perhaps longer ago than that, the Ku Klux Klan was active in North Carolina, particularly in Columbus County, where there is a heavy colored population. About 65 men were indicted for crimes of violence directed inpart at members of the colored race. Some of those men were tried in the Superior Court of Columbus County, North Carolina; and some of them were tried in the United States district court of that division, which sat at Wilmington. There were convictions in virtually every one of the cases. Some four or five of those persons, perhaps, were acquitted for lack of evidence against them; they were acquitted on motions for nonsuit, which were sustained by the judge. But all the rest of them were convicted and were punished; and the leader was sent to the penitentiary for a number of years.

Mr. President, ever since I first began to serve on the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, and began to investigate these matters, I have not heard of a single case of this sort in Federal court where there has been an acquittal. Many persons state that southern juries will not convict; but not one case of that sort in Federal court in which there has been an acquittal has been called to my attention or has been cited.

The truth of the matter is that there have not been prosecutions. If that is the fault of anyone, it is the fault of the Department of Justice.

The truth of the matter is that, for some reason, Government lawyers like to be furnished with loaded legal dice. They want to be able to win cases on a preferential basis; they want to have advantages which other lawyers do not possess. They do not want to have to stand before the law in a position equal to that of other attorneys, representing other clients.

One of the terrible things about the good motives of our friends who are so anxious to provide equality of voting rights to colored people is that they seem to think the only way that can be done is by denying to the Southern States and the local officials in the Southern States equal rights before the law, in the case of the lawsuits in which they are involved.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, I shall proceed with my remarks.

I have pointed out that the executive director of the American Civil Liberties Union told the Judiciary Committee, last year, that punishment by injunction is not severe. The implication of his statement was that it is all right to deny a man his right of trial by jury if the punishment is not going to be severe.

Mr. President, Senators speak of denying a citizen the right to vote. I do not know which is the greater offense—to deny a citizen the right to vote or to deny a citizen the right to be tried by a jury. I do not know how it is possible to make a comparison between the importance of those two rights or between the dangers involved as a result of their denial.

If a man is charged with a crime, and is about to be prosecuted for it, and is faced with the possibility of being convicted and sentenced to prison, certainly the right of trial by jury is an important constitutional right, so far as he is concerned.

Even though the right to vote is an important civil right, yet it seems to me that one charged with the commission of a crime might very well regard as more important his constitutional right of trial by jury.

Speaking of the right to vote, Mr. President, sometimes I think of the right to work. A man can live a happy and prosperous and successful life and yet never find voting necessary or essential to his happiness, prosperity, or success. But the great rank and file of the American citizens could not very well survive without work. So when there is talk of civil rights, if we wish to draw comparisons and if we wish to consider rights which are of the greatest importance to life and human welfare, then, although I favor the exercise of the right to vote, and although there is that right in my own State, and every citizen of Arkansas who qualifies to vote, is able to vote—all citizens, black and white alike—yet, after all, there are other rights which are more vital to life and the pursuit of happiness than the right to vote. Yet we hear very little about those rights.

I say to my colleagues the right of trial by jury is a sacred constitutional right, which should be preserved and protected, regardless of what the punishment may be. For that matter, can we believe the executive director of the American Civil Liberties Union when he says that punishment by injunction is not severe? Is a fine severe? A man can be fined by a judge for contempt. Is a jail sentence severe? It is of unlimited duration, under this bill. A man can be sent to jail for contempt. This bill does not even preserve the protection of a limitation on the length of a jail sentence for an alleged contempt, because the provisions permitting the Attorney General to bring suit in the name of the United States get around that limitation, and leave no restraint at all on the length of the jail sentence a judge may impose for an alleged civil-rights violation. Under the bill, if it becomes law, Federal judges will be inflicting punishments, both fines and jail sentences, on citizens of the United States who have been denied the right of trial by jury which is guaranteed them under the Constitution of the United States.

Mr. President, we have heard proponents of this bill, including the Attorney General of the United States, beg the question on the matter of jury trial by asserting that there is no constitutional right of trial by jury in a contempt case. Nobody ever said there was. The evil in this bill is that it seeks to make contempt cases out of acts which constitute crimes under State and Federal law, and thus to take them from under the jurisdiction of the courts, under laws which provide that persons committing such acts shall be tried by juries. The bill seeks to have those acts tried, instead, as contempts of court, under mandatory injunctions prepared by the Attorney General or by some so-called Civil Rights Commission, and issued by some Federal judge. The purpose, Mr. President, as I have demonstrated, is to eliminate trial by jury in such cases. Now remember, the statutes, both State and Federal, under which these acts constitute crimes, are not being wiped off the books. The acts remain crimes. But this bill would make them also contempts, and give Federal courts an overriding jurisdiction, so that alleged offenders could not be tried under the statutes if the Attorney General of

the United States wanted them tried for contempt.

Under the bill, the power given to the Attorney General would permit him to preempt the action of a State in enforcing its own laws, by getting an injunction. If the election laws were violated and the local authorities under the State law undertook to prosecute, the Attorney General, under his injunction power, could have them tried for contempt. Whether that would be double jeopardy or not, I do not know, but there is an indication that it would either prevent a State from proceeding under its law, or would supersede State law, and would substitute a contempt procedure, and, therefore, if the bill would do that, it would certainly seem to indicate that one would be placed in double jeopardy, without a jury trial.

Suppose Congress should be asked to pass a bill providing that whenever any person has engaged or is about to engage in any act or practice which would constitute teaching or advocating, or the conspiracy to teach or advocate, the overthrow of the Government of the United States by force or violence, the Attorney General could institute, in the name of the United States, a civil action for preventive relief, including an application for permanent or temporary injunction, restraining order, or other order. The effect of such a law would be to make actions which now constitute offenses under the Smith Act the subject of Federal court injunctions, and therefore punishable as contempts, without jury trials, and that is a pretty serious offense, a little more serious, I think, than denying a man the right to vote.

Immediately, if such a proposal were made, there would be a great hue and cry that we were seeking to deprive Communists of their constitutional right of trial by jury. But I say to the Senate, if the Congress is to adopt any such principle of Government by injunction in civil rights cases, if this principle of enforcement by injunction is to become accepted as a part of the American way, then it certainly should be made applicable in the field of subversion, where the Federal Government has the greatest and most direct interest in protecting its very existence.

Do my colleagues see where this bill leads? They cannot miss it if they follow it down the trail. By the same principle, in the trial of persons advocating the overthrow of the Government, the same persons who are insisting on taking away jury trials in the South would say, "No, we do not want to take the right of jury trial away from Communists. No; they have that constitutional right."

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. ERVIN. I will ask the distinguished Senator from Arkansas if some of the liberal organizations which have urged that the Southern States and local officials therein be robbed of the right of trial by jury would not rightly be indignant at all efforts to circumvent the constitutional rights of other persons, including persons charged with being parties to the Communist conspiracy.

Mr. McCLELLAN. That is correct. This bill in its present form as it affects the right to vote or any other civil right or any other crime should not be passed; but if we are going to change our system of jurisprudence in this country and strike down the jury system, and have trial for contempt instead of for crime, why should we not have it apply to criminals who are parties to a conspiracy to destroy America? Try a few of them for contempt, without a jury? No; those in favor of the bill cannot go that far; a Communist has constitutional rights. But a southern citizen—a southern white citizen—must not be permitted to have those rights. It is said he cannot be trusted on a jury. He sends his sons to foreign soils to fight against the Communists, to fight against the conspiracy that would enslave the world, but when it comes to the question of enforcing criminal laws, both State and Federal, it is said, "We cannot trust him; he is not a good citizen. He does not have the integrity to observe and to enforce the law. So we must give him a little different treatment than we accord to a Communist." Think what we are doing when we pass such a bill.

I suggest, therefore, that at the proper time I shall offer an amendment to the bill which will make applicable to those who would engage in subversive activity against the Government of the United States—the Communists—the same sanctions which the bill proposes to make available against southerners who may be alleged to be violators of civil rights statutes.

If we are to adopt the policy of enforcement by injunction, if we are to substitute for indictment and trial by jury the device of summary punishment as for contempt, there is no reason why we should not, and every reason why we should, apply this sanction to the one field in which the Federal Government has the greatest interest possible, the interest of self-preservation, to protect itself against conspiracy to bring about its destruction by force and violence.

If it is proper to have duly elected officials of sovereign States placed under Federal court injunction to restrain them against performing acts which might injure individuals in their voting rights, it is certainly proper to subject Communists and other subversives to Federal court injunctions to protect against actions which would injure the security and safety of the Government of the United States. As all of us know, the Communist conspiracy threatens all the basic constitutional rights of every citizen of this Nation, irrespective of race, creed, or color.

There is no argument which can be made against such an amendment. Mr. President, no argument can be made against an amendment to include the Communist conspiracy in this device, if it is a good one. There is no argument which can be made against such a proposed amendment that will not lie with equal force against the provisions of the so-called civil-rights bill with respect to enforcement by injunction.

Now let us consider another important matter of principle. I have referred already to one of the basic principles of the bill, the idea of government by injunction. Parts III and IV of the bill provide for enforcement by injunction. This is a bad principle, a very bad principle, whether or not it involves any question of segregation, or any question of civil rights.

Whenever there is substituted the will of one man—even though that man may be the Attorney General of the United States or a Federal judge—for the rule of law adopted by legislatures elected by the people, we are taking a long step toward despotism.

Of course it is desirable to protect the right of every citizen to vote. But so is it desirable to protect every citizen against murder, rape, robbery, and manslaughter. Recently, Mr. President, in a case which went to the Supreme Court, an admitted rapist was turned completely free. We want to tighten the law in that respect. But now we are told that injunctions should be issued and the contempt process invoked in an effort to secure someone the right to vote. If that is good procedure, and if we ought to abandon all the traditions of the people and enter upon such a course of action, then why should we not include some of the more serious crimes? If we are going to have peace and tranquillity and law and order by injunction, let us make it all embracing.

Of course it is desirable to protect the right of every citizen to vote. But so is it desirable to protect every citizen against other crimes. Other crimes, under existing law, are just as illegal as interference with the right of a citizen to vote under existing law. If we seek to stop any one of these crimes by getting an injunction against it, so that the commission of such crimes can be punished as a contempt of court rather than be punished as a violation of the criminal statute, we shall embrace an expedient which is bad at any point in the field of criminal law.

Mr. President, may I say that such an expedient will be a poor substitute for the tried and tested traditional system of jurisprudence in this country under which our Constitution guarantees a man who is accused of a crime the right to a trial by jury. If it is adopted at any point in that field, there is no reason why it should not be adopted in the whole field of criminal law, except the reason it should not be resorted to in any field. In fact, there is very serious danger that if we adopt this expedient in any area, we may find it impossible to stop until it has been extended to virtually all crimes in the book. If we can have a Federal court injunction against commission of the crime of illegally interfering with the right of a citizen to vote, we can have, with equal propriety, a Federal court injunction against the commission of murder within a particular district; or we can have a Federal court injunction against armed robbery, or against rape, or against reckless driving.

What is more, the form of "government by injunction" proposed in this bill is Federal Government, as opposed to State government. Any form of government

by injunction is bad. Federal Government by injunction, usurping State jurisdiction, is particularly bad because any infringement of the basic principle of States rights, embodied in our traditional form of government and expressed in the 10th amendment to the Constitution, is a step toward totalitarianism, toward the establishment of a central, monolithic state and the withering away of the Federal principle embodied in the Constitution of the United States.

The 14th amendment to the Constitution of the United States is cited as authority for this bill. But who will say that the 14th amendment repealed the 9th amendment and the 10th amendment?

The 9th amendment, as Senators will remember, protects the basic rights of the people. It declares that:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The 10th amendment protects the rights of the States. It declares:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The 14th amendment must not be construed as stripping the States of the right to control their own affairs. It was not intended to have any such effect. The 14th amendment prohibits certain actions by States, it prohibits the exercise of State powers in certain ways, but it does not prohibit any powers to the States.

What is more, the 14th amendment is directed at the States, as political entities. Its purpose is to restrict the actions of the States, as such, in certain areas. It was not intended to apply to the actions of individuals not State officials. In fact, it was not intended to apply to any actions of individuals not done, actually or purportedly, under color of State authority.

Any State law contrary to the 14th amendment can be declared void through appropriate court action. That can be done without any act of Congress. But the fact that someone may violate a State law which is not contrary to the 14th amendment does not give the Federal Government the right to move in and take over. Nor is forcible Federal intervention the cure for inadequate or improper administration of a State law, if that should be found to exist.

As a matter of fact, there is no more authority for the Federal Government to move in and seek to rob a State of jurisdiction in a civil-rights case, than it would have to take similar action in a murder case, a rape case, or in any other criminal case.

The 14th amendment did not repeal the 9th amendment and the 10th amendment, and the rights of the States are protected by the Constitution every bit as strongly as the exercise of those rights is controlled, in some degree, by the 14th amendment.

Before we stop discussing the principle of enforcement by injunction, there are a few more points I want to make.

One of them is that it is clearly premature to provide that the Attorney General may seek an injunction before any offense takes place. Now, that is one of the things this bill does. But it is wholly improper. There is no use trying to draw an analogy between this kind of a situation and a situation in which the property right of some individual is protected by a mandatory injunction. There is simply no similarity between the two cases. In the case of injunctions to protect property rights, the action enjoined is almost always one which is not illegal, but which if performed would result in some irreparable injury to another person or persons. Thus, if the act should be performed, there would be in most cases no penalty, and no adequate redress. But the actions sought to be enjoined under this bill are actions which do in most cases constitute offenses under State and Federal law and, furthermore, actions with respect to which there are now statutory provisions affording redress to persons injured thereby.

Where an act constitutes a violation of State law, a person performing that act should be tried for violation of State law, in State courts. So tried, the right of the accused to trial by jury would be protected. But the so-called injunctive-relief proposal in this bill would try such persons not in State courts under State law, but in Federal courts, for contempt of a Federal injunction.

If a person has violated a Federal law, he should be tried for violation of Federal law in a Federal court where his constitutional right of trial by jury will be protected. The injunctive-relief provisions of this bill contemplate that persons who have performed acts constituting violations of Federal law shall be tried, not by a jury in Federal court, for violation of Federal law, but by a Federal judge, without a jury, for an alleged contempt involving violation of a court injunction.

This bill is bad because it rides roughshod over the principle of preserving the rights of the States, because it ignores the time-honored and constitutional reservation to each State of power and jurisdiction over matters such as public order within its own boundaries. This is one of the greatest evils of this bill. The 10th amendment to the Constitution sought to preserve this principle, by declaring that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

This bill seeks to take from individual States the right to try crimes under State laws duly enacted, laws which are in no way in conflict with any constitutional principle but which, in fact, are directly in line with constitutional provisions and were enacted for the purpose of complying with Federal constitutional provisions.

To usurp power in this way is evil. To propose such usurpation is at least inviting and condoning evil.

There is no getting away from the fact that what this bill proposes is that American citizens shall be tried in Federal courts for violations of rules laid down neither by State law nor by Federal law, but by some single Federal judge; and rules which, in all probability, did not originate with that judge, but originated either with the Attorney General of the United States or one of his subordinates, or with a so-called Commission on Civil Rights in Washington.

If this bill becomes law, the Attorney General can go into Federal court and file a paper, and on the basis of that paper the Federal judge will have authority to lay down rules of conduct which will have all the force of law, except that violations of those judge-made rules will not be tried by a jury, but will be tried by the judge who made the rules. Thus one man will decide what the rule is, and what constitutes a violation of it, and what the punishment for that violation should be.

In most instances, necessarily, the rules laid down by some single Federal judge under the provisions of this law would parallel State law. Quite possibly the judge-made rules would be more restrictive. However that may be, under this bill, as soon as the judge-made rules have been issued, they will supersede both State and Federal law, and actions which otherwise would be tried only as violations of applicable Federal or State law will become punishable as contempts of the court. The right of jury trial on the question of whether those alleged actions were in fact performed will have been lost; it will have been taken away by the enactment of this bill.

Furthermore, citizens tried in this way for alleged contempt, on the basis of some act which might constitute a violation of State or Federal law, are thus put in double jeopardy, contrary to the Constitution; for even after being tried and punished for contempt it seems possible at least that they can still be tried for the same acts, under the law, and if found guilty, can be punished again.

Another matter of principle involved in this bill is the question of whether the Congress or the Attorney General or a Federal judge should decide when new penal rules are needed, and what they should be.

Let us assume that it has been established—I do not believe it has been established, but let us assume for the sake of argument that it has been established—that we need more laws in the civil-rights field. Then, Mr. President, it is up to Congress, and only Congress, to make the decision with respect to what laws should be passed. This is doubly true when imposition of punishment on our citizens is involved. No matter in what field a rule of law is needed, no single person should ever make the rule, be he Federal judge, Attorney General, or President of the United States. And this is especially true in the case of a penal rule.

If the Congress passes a law prohibiting certain actions which it thinks constitute invasion of the civil rights of individuals, the Congress will be determining public policy with respect to such actions.

By the same token, if the Attorney General applies to a court for an injunction, as this bill proposes, and writes the order which he asks the judge to

sign, then it is the Attorney General, and not Congress, who is determining public policy.

Mr. President, in any determination of public policy with respect to the punishment of citizens of the United States for their actions in any respect, it is the Congress of the United States, and not the Attorney General or any other individual, who should make the policy determination.

If the Congress thinks it has the right to tell the people of the South that they are not fit to serve on juries, to tell the men and women of my State and other States that they are to be deprived of their constitutional right to a jury trial in connection with certain offenses, that their State courts are to be deprived of jurisdiction with respect to such offenses, then the Congress ought, in all honesty, to seek to do this openly and directly, instead of trying to do it indirectly, as this bill does. I do not believe, Mr. President, that a majority of this body wants to insult the people of the South, or deprive them of their right of trial by jury in any instance, or wants to divest State juries of their jurisdiction and deprive State courts of their authority under State law. Mr. President, if that is what Congress wants to do, let us do it honestly and openly, and not through a device such as this bill.

Let me raise one more matter of principle, and then move on to detailed criticism of the bill. The point I raise is one I touched upon at the beginning, namely, whether Congress wants to provide at this time for using the Armed Forces of the United States to forcibly integrate the schools of the South.

On the issue of integration, let me say that whether they believe in integration of the schools or oppose it, both the Negro and the white citizens of my State—I think I can speak for them—are in agreement, in that they do not want the power granted to any authority. These questions will be settled peacefully, but that settlement will not be hastened by agitation or by Federal compulsion.

This bill, Mr. President, is like an iceberg. There is far more concealed beneath the surface than meets the eye.

This bill has been advanced as intended primarily to affect the protection of voting rights. But this bill will affect a far wider field, and whether it is intentional or not, this bill would have terrific impact on the problem of integration of schools.

Enactment of this bill would complete the last segment of a deviously constructed but airtight legal structure under which the Armed Forces of the Federal Government could be used to enforce integration of schools anywhere in this country.

Mr. President, if that sounds like a fantastic statement, it is the truth, and I shall proceed to demonstrate it.

The legal structure of which I speak will embrace both case law and statutory law. And the statutory law included will be, in part, law that is already on the books, and in part, law that would be enacted in this bill.

In the Brown case, which is reported at 347th United States Reports, page 483, the Supreme Court of the United States held that the right to equal protection of the laws under the 14th amendment included the right to attend an integrated public school. We may not agree with that decision, which violated every precedent on the subject, but the fact remains that decision is the law of the land. Now, a statute already on the books, section 1980 of the Revised Statutes, which will be found in section 1985 of title 42 of the United States Code, contains the following provision:

> If two or more persons in any State or Territory conspire * * * for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; * * * in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

Thus, under the doctrine of the Brown case if a Negro could show that two or more persons conspired to refuse or prohibit or prevent his attendance at an integrated public school, he could sue either one of them or both of them for damages. That is the law, that is one of the results of the Supreme Court's decision in the Brown case.

I am hastening along. I wish to discuss briefly part III of the bill. I shall not discuss part I of the bill in this address, but I do wish to discuss part III very briefly. Part III of the bill which is on the calendar is the provision which embodies enforcement by injunction. This part of the bill creates a new procedural remedy, authorizing the Attorney General to—

> Institute, for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order.

That is pretty broad language. I do not know just what is included in that very broad and all-inclusive terminology.

The Attorney General is authorized to do this:

> Whenever any persons have engaged or there are reasonable grounds to believe that any persons are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs first, second, or third—

Of section 1980 of the Revised Statutes.

I wonder how the reasonable grounds to believe are to be established. There is no requirement in the bill. There is no guide. No standard is set up. Reasonable grounds for whom to believe? The action must originate with the Attorney General. He is the only one who can file a petition. Suppose he files a petition and says, "I reasonably believe that something may happen if we do not obtain an injunction." Where is the proof? The proposed delegation of power in an area where proof should be required is terrific. Instead of proof, we are substituting the request, and possibly the statement, of one official of government. We are substituting that for evidence which should be required before such an injunction is granted.

We have already seen that under the paragraph designated third of section 1980 of the Revised Statutes, as a result of the Supreme Court decision in the Brown case, a Negro has a right of action if two or more persons join in denying or preventing or prohibiting his attendance at an integrated public school. Therefore, in any such case, under this bill, the Attorney General would have the right to go into Federal court and seek an injunction. Bear in mind that the Attorney General would not have to wait for local Federal court implementation of the Supreme Court's decision in the Brown case; he could go ahead the instant the bill became law.

If the bill should be enacted into law, the Attorney General could go into a Federal court anywhere in the country, whenever he found that the schools were not integrated, and could obtain a mandatory injunction requiring integration.

We all know about the decision in the Brown case. It allows a reasonable time to solve these problems. In my State, in some areas, plans have been submitted which have been approved by the district Federal court, and also, as I recall, by the circuit court of appeals.

The local authorities are proceeding in an orderly way, in an understanding way, and in a proper way. If the bill is enacted into law, it will not be necessary to wait for any procedure. The Attorney General can go into court and file an application for injunction, and say, "There is reasonable ground to believe that this school will not be integrated by next September, when school opens. Therefore, I want an injunction." The injunction will be granted. There will be no preparation. The problems will not have been solved. On the first day of school, if the situation had not been taken care of, a number of fine citizens would be subject to being brought into court and arbitrarily tried, fined, and sent to jail for contempt of such a court order.

Any injunction the Attorney General might obtain in that matter would of course be the basis for a contempt citation, and for possible imprisonment without a jury trial; and in the case of a criminal contempt, where ordinarily the statutory limit for imprisonment would be 6 months, the lid is off under this bill because the Attorney General is authorized to bring suit "for the United States, or in the name of the United States" and so the imprisonment could be for whatever the judge might deem reasonable.

But a threat of punishment for contempt for violation of one of these injunctions is not the only way it can be enforced. Such an injunction would be legal process of the court; and section 1993 of title 42 of the United States Code, a statute already on the books, provides that:

> It shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United

States, or of the militia, as may be necessary to aid in the execution of judicial process issued under sections 1981–1983 or 1985–1992 of this title, or as shall be necessary to prevent the violation and enforce the due execution of the provisions of sections 1981–1983 and 1985–1994 of this title.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am very happy to yield to the Senator from North Carolina.

Mr. ERVIN. If the bill should be enacted into law, could not the Attorney General immediately bring suits to compel the immediate integration of every public school in the United States, notwithstanding the fact that the people in the school districts affected, both white and colored, did not desire integration?

Mr. McCLELLAN. There can be no question at all about that. The petition for an injunction for the protection of an individual need not have to have the individual's consent. It can be filed against his will. Take the case of a school district, for example. Perhaps both races are happy and satisfied with the present arrangement. I might mention that the South, under the law of the land that has prevailed in this country for a hundred years or more, has set up two school systems, one for colored and one for white, and in some school districts more has been done for the Negroes than for the white people. However, even if everyone in a school district were satisfied with the arrangement, if the NAACP or some other liberal organization in the North could prevail upon the Attorney General to bring suit, that school district would be forced to integrate, in spite of the fact that the people of the district were satisfied and desired to work out their own problems.

So, Mr. President, if the bill passes and becomes law, the Attorney General can go into Federal court anywhere in this country, wherever he finds schools that are not integrated, and can get a mandatory injunction requiring integration. Because of the way this bill before us is drafted, that injunction will be issued, technically, under section 1985 of title 42 of the United States Code, and therefore the President of the United States, or whomever he may empower for that purpose, would have the right to enforce that injunction by using whatever military forces he deems necessary. He could call out the militia, or order in the Army or the Navy or the Marines, and force integration with tanks and tommy guns, bayonets, and tear gas, if he deems it necessary.

Note that the President can delegate this awful power; he can give it to any person he wishes. He can give it to the Attorney General, he can give it to a local United States attorney, or if he wanted to, he could give it in any particular case to an official of the NAACP, or any other person he might choose.

This, Mr. President, is the terrible power, the autocratic power, the dictatorial power for which the President of the United States is asking if he is still insisting that this bill be enacted without substantial amendment.

It will be said, Mr. President, that this power would never be used. If it is not to be used, let us not grant it. Let us not do a foolish thing. It is stupid to give something if it is not needed and is not to be used. But I say, if we vote this power into the hands of the President—and I am not talking about President Eisenhower, because Presidents come and go, and so do Attorneys General, as do Senators also—but if we vote this power into the hands of the President, or give it to whomever he may designate to exercise it, and if we enact the bill without amending it so as to eliminate this feature—this power—the time may well come when this power will be used, when citizens of the United States, no less entitled to the protection of the Constitution because they happen to be citizens of Southern States, will see the Armed Forces of their Government invading the streets of their quiet villages to carry out by force, under court order, the integration of their public schools.

As I said, Mr. President, I shall omit discussion of part I of the bill. There are some elements of the so-called Commission on Civil Rights which I shall wish to discuss later. I shall also skip part II of the bill for today, but will discuss it later.

PART III

Part III of the bill embodies new and novel principles, which, when fully understood, are absolutely shocking. This is the heart of the measure. Here we have the proposal for "government by injunction." The two new sections which are here proposed to be written into law would put the Attorney General in a position to ask that the order of a Federal judge be substituted for the provisions of the law itself.

This section would give the Attorney General the right to institute a civil action, either in the name of the United States but for the benefit of some "real party in interest," or for the benefit of the United States, not only for the recovery of damages, but for "redress or preventive relief including an application for a permanent or temporary injunction, restraining order, or other order."

Now, let us look at this provision a little more closely. Under existing law, a private individual can bring only an action for damages. Furthermore, he can bring his action only when there has been an overt act in furtherance of the alleged conspiracy. Now it is proposed by the legislation here before us to let the Attorney General bring an action not merely for damages, but for "redress, or preventive relief" and the Attorney General is to be authorized to bring this action without any overt act having been performed, because he can bring it "whenever there are reasonable grounds to believe that any persons are about to engage in any acts or practices which would give rise to a cause of action" under what is the existing law. How is it going to be determined what constitutes reasonable grounds to believe that any particular individuals are about to engage in any act or practice in furtherance of a conspiracy? Presumably, the Attorney General will exercise his opinion and tell the court what his opinion is, and the court will then act on the basis of that opinion.

I have pointed out that to empower the Attorney General, in the name of the United States, to institute civil actions or other proceedings for redress, preventive relief, temporary injunction, restrictive order or other order, and even before State remedies have been exhausted, would devastate the principle of States rights.

Further, it will afford to certain groups of citizens, free of cost, all legal representation and costs of litigation, while creating cost for legal services and litigation so far as States and their officers and agents are concerned.

It will mean that the Attorney General may institute litigation without the knowledge and even without the consent of the person designated as the party in interest.

The party in interest may feel that he has no complaint, but some pressure organizations can insist that he does, and be free to importune the United States to institute proceedings under this bill.

Another factor in this situation which gravely troubles me is that the proposed new language in section 121 of this bill would let the Attorney General move into a situation where an aggrieved person had already brought a civil action in his own name under the existing law, and the Attorney General could take that situation out of the hands of the aggrieved person, and into a Federal court in the name of the United States, and could ask and get relief other than or different from the relief sought by the person actually aggrieved or injured. Certainly there should be at least a requirement that the Attorney General bring no action in the name of any individual without the consent of that individual. And certainly, there should be a provision restricting the right of the Attorney General to bring an action in the name of the United States which would tend to displace or prejudice an action already brought by an injured party.

Thus, this language, if written into law, could have the effect of amplifying every existing statute affecting civil rights, so as to give it prospective as well as retrospective effect.

In the judicial philosophy of the present day, there is already entirely too much of the feeling that "the law is what the judges say it is." Judges and courts should interpret the law; they should not make it. Nor should they reserve to themselves nor attempt to exercise the right to change it, under the guise of "interpretation." The theory that courts and judges can and should make criminal law, by the device of issuing injunctions, goes a step further, and it is a very long step, toward upsetting the balance-of-power principle which has had a large part in helping keep this Government alive for more than 17 decades, and substituting a government of men for the government of law which has been our pride and boast.

PART IV

Now we come to part IV of this bill, entitled "to provide a means of further

securing and protecting the right to vote."

This part of the bill would amend the present section 1971 of title 42, United States Code, by adding three new subsections.

Several of the evils which I have pointed out in connection with other portions of this bill are gathered together within this part of the bill. We have the proposal for enforcement by injunction. We have the substitution of the Attorney General's fears for the fears of any party aggrieved or likely to be aggrieved. We have the substitution of the Attorney General's judgment for presentment or indictment. We have the determination of questions of performance of acts which constitute violations of law, not in a criminal court but in a civil proceeding and without a jury. Thus, we have also further interference with the constitutional right of trial by jury. And we have complete flouting of State law, complete ouster of State jurisdiction, even where it may have attached in a criminal case.

What else does this proposed new subsection do?

This is a question impossible to answer, because the new language is so broad, so sweeping, that it cannot be predicted with any accuracy just how it will be interpreted or construed.

This proposed new subsection would make it unlawful for any person to attempt to coerce any other person for the purpose of causing such other person to vote for, or not to vote for, any candidate for a series of named offices.

The question of what acts would constitute a violation of the statute offers a fertile field for speculation. Again, no guide or standard is set up.

If I suggested in a campaign that if my opponent were elected, there would be a great depression—and I have heard such things suggested in this country in campaigns—would that be coercion? Would it be intimidation? Would it be instilling fear? Would it be a violation of the proposed law? I do not know. No one else does. I do not know how the Supreme Court would interpret it.

Equally speculative is the question of what constitutes intimidation or attempted intimidation, or threat or attempted threat, for a like purpose—that is, for the purpose of causing a person to vote for, or not to vote for, any candidate.

Would a candidate for public office who stated in a public speech that the election of his opponent would cause chaos be guilty of intimidation, or attempted intimidation, or of threatening or attempted threatening, or of coercion or attempted coercion? There is no doubt that he would be trying to cause other persons not to vote for his opponent, but to vote for himself.

Suppose there should be an election in the city of New York involving the issue of the fluoridation of city water. Suppose one of the candidates were an advocate of fluoridation, and the opposing candidate took the position that fluoridation of the water would be unsafe, and said it would mean the poisoning of the life stream of the children, who years later would suffer if fluoridation were adopted. He might be telling the truth, or he might not be telling the truth. It might be his honest opinion, however. Medical experts differ on that question. Would that be intimidation? Would it be coercion? Would it be a threat?

Are we going to deny the right to have open discussion of public issues in this country? If the act is to apply to one section, it ought to apply to all sections of the country.

Since the opposing candidate, in the case I have assumed, was pledged to fluoridation, would not this amount to an attempt to intimidate or threaten the voters into withholding their vote from that opposing candidate? Should such a situation constitute a violation of Federal statute?

Suppose a candidate for public office has expressed his support of the principle embodied in so-called right-to-work legislation, and is an open advocate of such legislation. Would a union which asked its members to vote against that man on the ground that his election would threaten their union security and, indirectly, they very livelihood be guilty of a violation of the proposed new subsection we are here considering? It might well be, if we enact this section in its present form.

Examples could be multiplied, but I think the point is clear: None of us knows what will be accomplished if this proposal is written into the statutes of the country. We might be doing vast mischief by writing this provision into law. I think we should know a great deal more about it than we do now, and about how it will be construed, before we give it our support. I think we should take the time to write a provision which will accomplish precisely what we want accomplished and nothing more. This provision as it stands is likely to accomplish far more, in many ways, than any of us here is willing to say he desires.

Let us consider the provisions of the proposed new subsection (c). This subsection would give the Attorney General the right to sue for an injunction. It would also give him a number of other rights. It would give the Attorney General the right to take enforcement out of the hands of the States, into his own hands; to take it away from State courts, and put it in Federal courts. It would give the Attorney General the right to ignore a citizen who was aggrieved or thought himself aggrieved by some civil-rights violation, and to proceed in the name of the United States in such a way as to nullify and negative any action that individual might have taken, or might have decided to take, for himself. And it would authorize the Attorney General to do this without even consulting with the party aggrieved.

In connection with this proposed grant of power to the Attorney General, this bill is a little bit like the Lord. It giveth, and it taketh away. Under the preceding section—section 122 of part III of this bill—individuals would be given the right to sue for damages, or equitable or other relief, if they considered their civil rights to have been invaded. Then under the proposed new subsection (c) of section 131, which we are now considering, the Attorney General is given the right to bring an action which would supersede whatever action the individual might have brought, and either put him out of court altogether, or at least take away from him the right to control his own lawsuit.

The third new subsection which is proposed, subsection (d), specifically directs the district courts to exercise jurisdiction over actions brought by the Attorney General under the preceding subsection, "without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

As I believe I have pointed out already in connection with a similar provision in another part of the bill, this means not only that the United States could proceed—that the Attorney General could proceed—without the necessity of paying any attention to State laws which might provide administrative or other remedies; it also means that if the party aggrieved is an individual, and the Attorney General decides he is going to file an action, it does not make any difference what the individual may have done or what he may do; the Federal court is going to take jurisdiction of the Attorney General's action, and proceed with it.

Under the proposed law, anyone who is aggrieved, anyone who has a cause for redress or action, anyone whose rights have been trespassed upon or taken away or denied, is not required to pursue the normal remedies of law laid down for him and afforded him and other citizens. The State laws can be bypassed completely. The Attorney General, without the consent of anyone, or at the request of anyone, can go into a court and bring suit.

A case was decided about a year ago, I think, known as the Nelson case. In that case the Court held that because of the Smith Act, and the amendments which have been adopted to it, the Federal Government entered into the field of subversion and the protection of the country from spies and saboteurs; and that having done that, the State laws have been superseded. Therefore, one could not be tried and convicted under a State law for such an offense.

We shall be taking a great deal of power away from the States under the proposed legislation. We shall be taking much power away from State legislatures and from the executive and the enforcement officers and the people of the States. We are by this bill proposing to supersede, to enter into, and to preempt the field of election law enforcement and to take that right away from the States. If the bill does not actually do that, it comes so near to doing it that only an amendment here or there would cause it to have that effect. The bill goes almost that far, if it already does not go that far.

There are many sources in this country which will be pressing for the whole loaf, as they refer to it. If they find that the bill is not the whole loaf, they will be pressing for the whole loaf. It is a dangerous bill to enact.

This is about as highhanded a procedure as I have ever seen proposed by a statute. How can anyone support the

myth that this bill is intended for the protection of individual citizens, when it is perfectly clear that the major effect of these proposed new provisions is to give a vast and arbitrary power to the Attorney General, in derogation of any rights of the individual citizen, to such an extent as to permit the Attorney General to ignore him altogether.

Let me point out also that here again we have a provision which could and would operate to deny jury trial to an individual who allegedly violated an injunction issued by a Federal judge at the Attorney General's request.

Now let us look at the standard which is set up as the basis on which the Attorney General may bring his action. The requirement is that some person has engaged, or there are reasonable grounds to believe that any person is about to engage, in any act or practice of a certain class.

It is easy enough, perhaps, to determine whether a person has engaged in some particular act. To determine whether a person is about to engage in a particular act is a much more difficult matter. Unless the person directly declares his intention to perform the act, it is always a matter of opinion, necessarily not based on knowledge, whether he is going to perform it at all.

But we are not in this subsection confined to the performance of acts. There is also the question of engaging in any practice. The question of whether a person has engaged in a practice is far more difficult than the question of whether he has performed an act, because a practice necessarily implies a long-continued course of conduct. But we are not in this proposed new subsection limited even to the question of whether a person has engaged in a practice. The standard includes the question of whether any person is about to engage in a practice. How in the world can this be demonstrated to the satisfaction of any court? To say that a person is about to engage in a practice is to say that a person is about to persist in a long-continued course of conduct. But without prescience, how can we have even reasonable grounds to believe that the person will live long enough to engage in such a course of conduct? How can we have even reasonable grounds to believe that he will perform repeated acts of a similar nature? How can we know, really have reasonable grounds to believe anything at all about what an individual will do over a sufficient period of time to constitute a practice? Remember, we are not necessarily dealing here with a question of a man who has already been engaging in a practice; we are concerned with the question of a person who is about to engage in a practice. It is absurd to think that this is a standard which would support a criminal prosecution.

But that is the rub: It is not necessary that this standard be sufficient to support a criminal prosecution, because no criminal prosecution is intended here. What is intended is a prosecution—or persecution—for contempt of court. It is not a jury which is going to decide whether this standard has been met. It is the Attorney General, in the first instance, and some Federal judge, in the second instance. And these two men are going to move together toward the ultimate punishment of individual citizens of the United States without indictment, without trial by jury, in short, without the elementary protections to which every citizen has a basic constitutional right. This is not just mischievous. This is vicious.

We see, now, that the provisions of this proposed new subsection (c) are in effect a sort of hunting license issued to the Attorney General, a declaration of open season for birdshot blasts at the civil rights of citizens whose way of life or whose style of thinking is not approved by the Attorney General or his party. What this proposed new subsection says, in effect, is "if you think you can find a Federal judge who will give you a decision, you can sue just about anybody in the jurisdiction of his court." That is what this subsection means. That is what the principle of "enforcement by injunction" means.

I shall discuss the bill much further if and when the Senate determines to bring the bill before the Senate and give the Senate an opportunity to offer amendments. But before I close, I should like to discuss, for a moment, the effect of the proposed new subsection (b) and the proposed new subsection (c) considered together. It seems clear to me that the provision for issuance of an injunction to prevent any attempt under color of law to interfere with the right of any person to vote is nothing less than an effort to give Federal courts the right to adjudicate in advance the question of eligibility or qualifications of a voter under State law, or perhaps even without regard to State law, where such determination properly should rest with State courts.

Suppose a State law provides for an illiteracy test to be applied by State officials of a designated class to all applicants for registration to vote. Under the language we have now before us, if we should enact it, the Attorney General could seek an injunction or a declaratory order which would state either that certain named individuals, or that all persons of a certain class, were in fact eligible and qualified to vote. The election officials whose duty under State law would be to apply the literacy test, could be enjoined by a Federal judge from administering that State statute. Or the United States attorney could seek preventive relief in the form of a mandatory injunction to require all officials of the class stipulated by the State statute to declare eligible and qualified either particular individuals, or even all voters of a particular class, within their respective jurisdictions. This would amount to a complete ouster of State jurisdiction; and that, maybe, is exactly what the knowledgeable proponents of this bill want to accomplish.

Remember that "acting under color of law" does not mean "acting under some sham which is not a real law;" it means acting under law whether or not the law is valid. So we see that the proposed new subsection (b) purports to declare that no law, even though passed by a sovereign State and pursuant to the constitutional right of that State to declare the qualifications for electors within its boundaries, shall have the right to coerce any person not to vote. If this provision should be enforced in that way—and you can depend upon it, if it is enacted into statute the Attorney General will try to enforce it that way—the States would be directly deprived of a power vested in them by the Constitution. But that causes no concern to those who know what is in this bill and are still for it. They know that this bill will strip individuals of their rights to trial by jury. They know that this bill would strip State courts of their jurisdiction and their authority. They know that this bill would substitute the rule of individuals—often only two individuals, the Attorney General of the United States and some Federal district judge—for rule by law and under law. They know that this bill would abrogate States rights. They know that this bill, if enacted and made operative, would establish the precedent for an American Gestapo, for centralized police power, for regimentation, for developing here between the Atlantic and the Pacific Oceans, and between Canada on the north and Mexico on the south, our own particular variety of totalitarian state. They know these things; but they seem not to be concerned.

I am concerned; and I say that the people of this country are most vitally concerned. This bill, as I have repeatedly stated, is aimed at the South; but if it is enacted, it will not be the rights and privileges of the South and of southerners alone which will be violated. On the contrary, many of the imporant constitutional rights of every American citizen will have been weakened, threatened, undermined, or overridden. In the name of protection of civil rights, this bill will do far more harm to far more civil rights than it will ever protect.

Mr. President, I shall have more to say about the bill if it is taken up for consideration by the Senate. When it is open for amendment, I shall hope to analyze specific provisions of the bill and to talk about other titles and parts of it which I have not discussed today. I shall offer specific amendments to cure at least some of the major defects of the bill.

I shall not offer the amendments now. I have only pointed out today in a preliminary way some of the dangers of the bill, and some of its evils. I know I am not alone in this matter. Other Senators also will wish to give careful consideration to the bill and to offer their own criticism and their own suggestions for amendments.

For the time being, therefore, I shall suspend my own discussion of the bill; but I shall resume it. I shall again and again and again urge my colleagues to awaken to the dangers which are inherent in the bill—dangers, Mr. President, which should be alarming to every one of us; and they are, to those who recognize them.

Mr. SCOTT. Mr. President, today I have a very distinct honor in taking part in the debate on the civil-rights bill. That is because I happen to be the only nonlawyer among the southern Members

of the Senate who has taken part in the debate; all other southern Senators who have participated in the debate are very distinguished lawyers in their own right.

In fact, Mr. President, I was sent here by my constituents to try to break Cousin Ezra from sucking eggs. Also, our people knew they had a good lawyer in SAM ERVIN, and knew there was no need to waste their energies by sending two lawyers to the Senate. So the rougher element just elected me to the United States Senate. [Laughter.]

Speaking of the rougher element brings to my mind a story about Fayetteville, N. C. Captain Rose, who now has passed to his reward, had a colored boy who was running the elevator. Captain Rose noticed that the folks around there had been calling the boy "Deacon." So the captain asked the boy, "Just why do they call you 'Deacon'?"

The colored boy replied, "Cap'n, I is a deacon."

"How come?" asked the captain. "As many times as I have gotten you out of jail on Monday morning for your carousing around on Saturday night, and for other causes, just why did they elect you a deacon?"

The boy said, "Cap'n, that's very easy. The rougher element in the congregation just riz up and demanded recognition." [Laughter.]

Mr. President, that is just what happened in North Carolina in my case; they did not see any reason for wasting their energy by electing two lawyers to the Senate, and they let the rougher element be recognized. So they just "riz up" and elected me to the United States Senate. [Laughter.]

As I have said, I was sent to the Senate mainly to break Cousin Ezra from sucking eggs. But I am having a hard job of it; he just does not want to be broken of the habit. But I think it would do good to break him of it.

Then, too, I want to mention one thing about Senator ERVIN. I might refer to the trials, by juries in State courts and by juries in Federal courts, of those who had been operating in that area in the Ku Klux Klan. At that particular time I happened to be the Governor of the State, and I know about this matter as well as does any other Member of the Senate. In fact—although probably this is not the right place to tell about it—my grandfather was a member of the Ku Klux Klan; and although I have been invited to join, I never joined. As Governor, I was there to uphold the law of my State and to see to it that every person—be he a white man or be he a colored man—had his rights in court, and to see that they were protected. And I stood by the colored man, always, and will continue to, in this respect.

Some have talked about money to run a campaign. A little later in what I have to say, I shall develop that point.

Speaking of money with which to run a campaign, Mr. President, the colored people contributed to my campaign just as well as the others did; and I always took their contributions; I never deny that. But I reported them. I shall have another campaign, some day; and any time anyone wants to join in on that phase of it, I will accept the contribution. [Laughter.] But I will report it, too—unless the Congress finds some way so that I do not have to. [Laughter.] I leave that up to the person who is going to do the contributing. I will report the contribution if he does not do it otherwise.

I have said that my grandfather was a member of the Ku Klux Klan. In that day and time, my grandfather, who was a crippled man, was arrested. As a crippled man, he had to walk 40 miles. As a result of that walk, he had to have his leg taken off. That was before the day of anesthetics; and as a result of that, he died. I wish SAM ERVIN were in the Chamber now, because he can vouch for that, since the Kirk army that came into my county of Alamance, went right through his town of Morgantown, N. C.

Many people do not understand why it is that both the Republicans, the Democrats, the colored people, and the Indians there have always voted for me, in my home county of Alamance, and always will, I think, unless the new generation that is coming on does not understand how we came to get our liberty and how we have maintained it in the Southern States. The people there know about my grandfather. They recall the times when, in the garret of the old home where I lived, and where I was born and reared, my grandmother and other women in the community met—in what we call the garret of the house; I do not know whether some Senators are familiar with that expression. But it was on the third floor, and they met by candlelight, in the daytime, to make the hoods the Ku Klux people wore.

I asked for information as to how many members of the Ku Klux there were in my State while I was governor. I know the State bureau of investigation at that time knew of 600 Ku Klux members in the State of North Carolina. We have the Patriots which is an offspring of the Ku Klux. The program is exactly the same in that the people who are in the organization sincerely feel it is the only way to maintain the traditional social order. It is sponsored by many of the same folk.

I merely give that information for the benefit of my colleagues who cannot understand why, in a Southern State, one cannot be elected for office if he does not support the South in its position. I know that. Anybody from the South would know it. When people from the North come to the South and talk to us about what we ought to do, we think of the old carpetbaggers who were rank poison to the South. In fact, I was 21 years old before I knew the term "damn Yankee" was two words. [Laughter.] That is the truth.

It is not good to rehash the Civil War now. That experience is so deeply ingrained in us that a man in the South will never get very far if he supports any program which is different from what the majority in the South wants.

I see present in the Chamber the distinguished Senator from Minnesota [Mr. THYE]. I have been listening to some of the points he has made. If he wants to get the full answer about how the South feels, I remind him that he was very kind one time to a newspaper reporter from North Carolina who was in his State. Her name was Lois Byrd. A year later I had her as my secretary. I would like to have the Senator from Minnesota write to her and find out how near what I am saying is to the truth, because I think he believed her more than he ever has believed me at any time.

Mr. THYE. Mr. President, will the Senator yield?

Mr. SCOTT. Not for a moment. Let me get through my statement. I shall yield after I get through the general subject.

Mr. THYE. The general subject referring to Miss Byrd or the entire subject?

Mr. SCOTT. It is all inclusive.

Mr. THYE. Mr. President, I fear that I cannot remain that length of time in the Chamber, but inasmuch as my good friend has referred to me, if he will pardon me, I should like to refer to the young lady to whom the distinguished Senator has referred to, Miss Lois Byrd. At the time I was Governor of Minnesota she was assigned to the Minnesota State Capitol to gather the news. We of the North, of course, can distinguish a southern voice and a southern expression just about as rapidly as those in the deep South can distinguish us from the North, and we commenced to call that young lady "Honey Child," because of her very pleasing ways and because of her southern drawl, and because of the honey sort of an expression the people of the Deep South can so often bring forth. I emphasize the words "that honey sort of an expression the people of the Deep South can so often bring forth."

She was one of the most delightful persons I ever met. She was a source of pleasure to us about the Capitol. In the wintertime when she came into the building on one of our bitter, cold, 30-degree-below-zero mornings, the way she would refer to those cold mornings would be something we would remember all day. Just to listen to her would really make us forget all about the cold weather.

Later on I received a letter from her telling me that she had been in the office of the Governor of North Carolina as secretary and doing public-relations work, and that the Governor was coming to Washington as a Member of the Senate. Miss Byrd in her letter to me introduced me to the Senator, and I now serve on the same committee as the Senator does, the Committee on Agriculture and Forestry.

The Senator need not ever apologize for the sort of representation he gives his State in the United States Senate. He may not be a qualified attorney, as his colleague [Mr ERVIN] is, but he will take care of himself and he will take care of the people of his State. They need never worry about that. I say that most emphatically. The people of his State need not worry about the kind of representation the Senator is giving them, not only with respect to agriculture but with respect to every other phase of service he is rendering in the Senate. It has been a delightful experience and it has been a privilege to

serve with the Senator from North Carolina on the Senate Agriculture and Forestry Committee. I know his people regard the Senator as having been one of the outstanding governors of their State. The Senator did not come to the Senate as representing any specific group; he came as representing his State, and he is doing a very excellent job of it.

Mr. SCOTT. I thank the Senator very much. If I had written that compliment out for him, I do not believe I could have done any better. [Laughter.]

Mr. THYE. I have said nothing but the truth.

Mr. SCOTT. My colleague from North Carolina [Mr. ERVIN] is now in the chair as Presiding Officer. I think all my colleagues will realize, before the debate is over, that I may not be a member of the bar, but I have been invited by several folks to go there. I know my colleague is going to give them a lesson in the law, because he knows his law. I told my people there was no need of wasting their time by sending another lawyer to the Senate, because Senator ERVIN could take care of himself and other people, too.

Mr. President, Senators on both sides of the aisle, and indeed, the entire Nation owe a great debt of gratitude to such outstanding scholars and statesmen as the senior Senator from Georgia [Mr. RUSSELL], the senior Senator from North Carolina [Mr. ERVIN], and the other Senators who have given us the benefit of penetrating analyses and interpretations of the bill we are being asked to consider.

As his colleague and fellow North Carolinian, I want to tell the Members of the Senate, and people everywhere, that the Nation is fortunate to have in public service a man of Senator ERVIN's knowledge and capabilities.

Mr. President, from the day when my father first led my faltering boyish steps into the Sundayschool room I have been confused as to the meaning of the words, "unforgivable sin."

Throughout the years I have wondered if those words are not deeply involved in hypocrisy and intellectual dishonesty.

Of this I am not positive. I am convinced, however, that the so-called civil-rights bill we are now considering is steeped in hypocrisy and cloaked in intellectual dishonesty.

I feel that my fears are shared by the President of the United States. Within the last 2 weeks, in a press conference, President Eisenhower candidly admitted that he was confused over some of the provisions of the bill.

The President said he was asking Attorney General Brownell to interpret these provisions for him. The President said that his idea of a civil-rights bill was one that established and preserved the rights of all Americans to vote.

It is not strange that the President is confused over some of the provisions of this so-called civil-rights bill, particularly in view of the behavior of the Attorney General when he appeared before the Senate Judiciary Committee to give his testimony on similar proposed legislation.

Mr. Brownell time and time again ducked explaining one of the most basic provisions of the measure, the provision designed to empower the President to send Federal soldiers, armed with bayonets, into the Southland to enforce integration.

Why do not the proponents of this bill, who claim they are representing the views of the President, "come clean" with the people of America, "come clean" with themselves, and admit their true purpose?

Why do they not truly represent the President they claim to serve, and limit their bill to the objective the President has said he seeks, namely, the establishment and preservation of equal voting rights for all Americans?

Regardless of partisan politics, President Eisenhower is an honorable man, even though at times he is confused. And I cannot believe that he had his tongue in his cheek when, in 1948, as Chief of Staff, he testified before the Senate Armed Forces Committee, on the question of segregation.

But I do believe—

stated General Eisenhower in testifying on the problems encountered in the Armed Forces in connection with enforced desegregation—

if we attempt merely by passing a lot of laws to force someone to like someone else, we are just going to get into trouble.

General Eisenhower also testified—

I believe that the human race may finally grow up to the point where it will not be a problem.

The General was eternally right when he testified that the problem will be solved finally. And he was also eternally right when he stated that we are going to get into trouble if we attempt, by passing a lot of laws, to force someone to like someone else.

That was the man Eisenhower speaking. That was the soldier Eisenhower speaking. And during his recent press conference, it was the same man, the same soldier, lately become President of the United States, speaking when he stated that the only civil-rights bill he was interested in was one that would establish and preserve the voting rights of all Americans.

Why, I ask, Mr. President, did not the proponents of this vicious, punitive bill write into it—before they served it up—a provision reaffirming the age-old Anglo-Saxon principle that every man, whether he be white or Negro, is entitled to the inalienable rights of being confronted by his accuser and of a trial by jury?

I ask you, too, Mr. President, why did these worshippers at the shrine of carpetbaggers, these advocates of legal lynching, not write into the bill a prohibition against sending into the homes, market places, and churches of 40 million people soldiers armed to the teeth, to enforce upon a peaceable people of two races a way of life which a majority of neither wants?

Mr. President, the answer is obvious. It is inescapable, and as immutable as the laws of the Medes and Persians.

They care not for the welfare of the white race, and they care not for the welfare of the Negro race. A new generation of carpetbaggers, feeling insecure in their political positions, have their eye upon the election returns.

I have very diligently listened to all the discussions on this bill day after day. I can say truthfully to all my colleagues that if they ever come into the South, and if they should ever get into trouble—which, of course, would not happen to them—I would hate to have some individual act as their judge without a trial by jury. We had better protect that right, I will tell the Senate now. I say that sincerely. Those who say they do not want to have trials by jury in the South simply do not know what they are talking about.

I have heard some of the Senators, members of the bar, say that they themselves are good lawyers, but sometimes they cannot agree. That is why we have all this hair-splitting. I never heard so much hair-splitting over words in all my life.

I thinks perhaps it would be well to have more farmers in the Senate. [Laughter.] Other Senators may not agree with me, but I think we could come to the truth.

My people have been over here ever since this country was settled. There have been doctors in my family; there have been businessmen; there have been teachers, and there have been preachers, but there has never been a lawyer in my family. [Laughter.] I checked on my wife's side of the family, too, because we have always been very active in politics on both sides of our family, and I asked, "How is it that we have been so active and all that, yet no lawyer ever appeared in our family on either side?" I do not know. I told one of the boys who works with me at times about that situation, but he could not believe that it was true. He has been checking. I told him to go ahead and check and let me know if he ever found a lawyer in my family. I wanted to know why there were no lawyers in the family.

Senators are welcome to come to the South at any time. They will be treated cordially. If any of them get into trouble and cannot get out of jail, I will be willing to go to jail with him, if it will help him.

I see present in the Chamber my friend, the Senator from Michigan [Mr. MCNAMARA]. He is a man I would really go to jail with if I could not get him out. But anyone who comes to visit the South had better watch out. If he gets into trouble, he had better call for a trial by jury. I will help him to get it.

Political expediency means more to those who have been bitten by the virus of carpetbagism than does trial by jury.

It means more to them than does the considered judgment of the general of the armies who led the Free World to victory against the evil forces of Nazi Germany.

Political expediency and success at their home polling places, where bias and prejudice are the rule rather than the exception, meant more to those who would press the bitter cup of integration to the lips of the Southland than do the words of the immortal Lincoln "government of the people, for the people, and by the people."

They in their blindness and eagerness would substitute for government of the people, for the people, and by the people the counterfeit coin of government by contempt procedures and without the benefit of trial by jury.

Mr. President, in my heart I have no anger against them. Remembering the words of the Master, I petition for them forgiveness, for, I am sure they know not what they do. I am sincere in that statement.

I was born a southerner and in a Christian home, and I will die a southerner and a Christian. I know whereof I speak when I talk about the South and the mutual problems, hopes, and aspirations of all the people of the South.

The two races, the white and the Negro races in the Southland of which I am a part, for generations have lived in friendship side by side. We, the white and the Negro people of the South, will continue to live side by side as friends and as neighbors, each helping the other, if left alone and not pitted against the other by hypocritical and intellectually dishonest interests.

My father had a considerable farming operation in the South. I worked under Negro foremen until I was 21 years of age. I got along with them all right. When I was only a little tot I would slip away from home, and when my mother could not find me, she knew exactly where I was. I was in one of the colored homes, eating dinner or breakfast. I enjoyed it. I enjoyed their company, and I think they enjoyed mine. I have always helped them, and will help them again. They are my friends.

Modern-day carpetbaggers, if you please, are not interested in the welfare of either the white or the Negro people of the South, but are interested only in the political advantages they can gain on election day.

Those are high-sounding words. They are too high sounding for a country boy to use, but I was told that it was all right.

Mr. President, I repeat, I know whereof I speak. I was Governor of my State for 4 years before the voters of my State, white and Negro alike—yes; thousands upon thousands of Negroes vote in the State of North Carolina—sent me to the United States Senate.

I want each of my colleagues to know that I talk the same way on this issue or any other issue on the floor of the Senate as I do to the people of North Carolina.

I shall now read a part of a speech I made on March 18 of this year before an audience in Roxboro, N. C.

But before I read from that speech I should like to tell the Senate something about the composition of my audience and about the occasion.

The audience was approximately 98 percent Negro. The occasion was the awarding to the Negroes of Person County, N. C., the County of the Year Award in the annual rural progress campaign for outstanding advancements by Negro citizens.

I told my audience:

You have also learned as a result of this contest, I am sure, that in order to reach the goals you set you must work together, hand in hand with your neighbors and others who are interested in the overall progress of the county.

The list of groups that cooperated is long, and it touches all areas of your daily lives. Government agencies, local, State, and Federal, all joined in the effort with churches, schools, farm organizations, civic clubs, banks, merchants, newspapers, radio stations, and many others to help you attain your goals in this contest.

The contest showed very clearly what can be achieved when everybody works together.

The contest also shows something that is even more important.

It demonstrates that the people of North Carolina—the Negroes and the whites, the farmers and townspeople, the wage earners and the businessmen—know how to work together in harmony.

In addition to the cash award, which you are getting today, I think the people of Person County deserve some sort of award for showing the world an example of good race relations in very difficult times.

I say these are difficult times for good relations between the races, because it is the truth, and we might as well admit it.

Events in the South have been exaggerated in such a fashion in the last year or so that it has been extremely difficult to maintain the normally good relations between the races that we have had in past years.

Demagogs in both races have had a field day, and they have set us back a whole generation in the good relations that we did enjoy only a few years ago.

Day by day there is less and less room for calmness and a level-headed approach to the problems we have.

We have had too much outside advice about how to handle the problems we are capable of handling ourselves.

I said that in all sincerity. If people would stop coming to the South and then going back up North somewhere and writing a book within 30 days as to what is the matter with the South; if they would only let us alone and stop writing so much, we would get along a great deal better. There can be no question about that.

I said further in my remarks at Roxboro:

We see a lot of glaring headlines about racial strife and abuses and injustices but it is hard to get across the story of the hard work both Negroes and whites do and do together in such projects as the rural progress campaign.

Firecrackers have been popping around us but so far none have gone off under us.

Somehow we have got to show the radicals—and there are radical elements in both races—

I do not believe anyone will deny that statement, Mr. President—

that setting off bigger and louder firecrackers is no way of preventing explosions.

It is a difficult job, but we must make efforts to reestablish the lines of communication we once had between the races in North Carolina, and cement the good relations we have demonstrated in the past.

We have got to show the troublemakers that we can solve our own problems.

Mr. President, when the Supreme Court announced its implementation decision in 1955, I was riding on a trolley car coming to the Capitol, and I ran into two newspapermen. They said to me, "What do you think of the Supreme Court decision?"

I said, "I do not know. I have not heard about it."

They said, "The Court handed down thus and thus. What have you to say about it?"

"Why," I said, "that is simple."

They said, "Are you ready to make a statement?"

I said, "Yes."

They said, "How about your studying that decision for a while, and we will get you tomorrow to make a statement?"

I said, "I do not have to wait until tomorrow."

When we got to the Capitol they said, "Let us first go upstairs to our office and get some of the other press boys, and maybe we will take a picture, too."

I said, "All right."

They came and said, "What do you say about the decision?"

I said, "Well, the Court took 60 years to say we were wrong. I think if you give us 50 years, we can work the thing out."

I still say that. That is about all the time we need.

To continue with my remarks at Roxboro:

This is very essential because nobody gets anywhere when each and every little problem, real or fancied, is taken into courts for settlement. Once that chain of events takes over then nobody really wins in the long run.

Certainly a point of law may be won or proven but when the court closes everybody has to go back home and be neighbors again. That's doing things the hard way.

A man who sues his neighbor over a property boundary line may win his case in court but he has made an enemy for life in many instances.

Any court decision that destroys the good will of people who have got to live and work together is worthless.

I mention this because, in the final analysis, after all the dust has cleared, race relations are no better than the way you get along with your neighbors down the road or on the other side of the town.

I mention it for another reason, too.

Only a few weeks ago the President sent to Congress several recommendations concerning civil-rights legislation.

The actual bills that were introduced in Congress in behalf of the administration are complicated.

I have studied the testimony given to the committee holding hearings on these bills.

In all the arguments both pro and con I have tried to determine this: How would the civil-rights bill be carried out, how would they work, what would be the practical effect?

I think you ought to know what the testimony shows and shows very clearly.

If the present civil-rights bill were enacted into law they would, above all else, legalize the taking away from both Negroes and whites alike, of some of the very basic rights of all individuals.

These bills, if enacted into law, would, among other things, enable the Attorney General to bypass the right of all of us—Negroes and whites alike—have to a trial by jury, the right we and our forebears have been building and strengthening for a thousand years. In circumventing the right of trial by jury, they would fashion and forge a tool of legal persecution, and pave the way for legal lynching of some of our most cherished existing rights.

They would also enable the Attorney General to deny individuals, all of us alike, the right to face and cross-examine accusers.

They would also enable the Attorney General to circumvent the right all individuals have, both Negroes and whites, to indictment by a grand jury.

These bills, if enacted into law, would undermine the very foundations on which our individual liberties are built. Regardless of the intentions of the authors, the present civil-rights bill would do the opposite of what they are intended to do.

When we think about civil rights—and such rights as trial by jury—we should remember that here in North Carolina we have a rich history in upholding individual liberties.

I want Senators to pay particular attention to this:

When this Nation was founded the State of North Carolina, one of the Original Thirteen Colonies, refused to join the Union until the Bills of Rights, the first 10 amendments to the Constitution, were adopted.

We have always been proud of this fact because it is in the Bill of Rights that we have the guaranties of a trial by jury, the right to face an accuser in open court, and the right to indictment by a grand jury.

These are just a few of the basic ingredients that are essential to maintain a free society.

And they are ingredients that, when neglected or ignored, will bring real trouble to those who would bypass them. One of the biggest challenges democracy faces today is the preservation of such guaranties as those that are welded into the Bill of Rights of the Constitution of the United States.

To upset these, would be inviting certain destruction of free government.

We should give serious thought to these things and we should remember that there was no right to trial by jury in Italy under Mussolini, there was no right to trial by jury in Germany under Hitler, and today there is no right to trial by jury in Russia.

I think we all are familiar with the kind of lives people live under such governments.

The Negro as a race has gained nothing if the right to a trial by jury is traded away.

No matter what kind of glitter is put on the present civil-rights bills, they are a sword that cuts many ways.

In my more than 20 years as a public official, elected by all the people of North Carolina, as commissioner of agriculture, as Governor, and now as United States Senator, I have looked at all questions, and acted, on the basis of what is right and best for all the people.

As Governor, recognizing the basic fact that 30 percent of the State's school population is made up of Negro children and that the Negro race was entitled to a voice in how Negro children should be educated in the public schools of North Carolina, I appointed as a member of the State board of education, Dr. Harold Trigg, and I have never regretted it. And I did not appoint Dr. Trigg because of a court order.

I would have resigned as Governor before bowing before such an order.

Mr. President, since I made that speech the present Governor of North Carolina has reappointed Dr. Trigg, a colored man.

The rural progress campaign is a living example of what I think is the way our race relations must be approached in the long run.

Those, Mr. President, are the sentiments I expressed to the people of my State, white and Negro alike, on the 18th of March of this year. They are still my sentiments.

And now, Mr. President, I shall repeat the last two sentences of what I have just quoted. Those sentences are:

And I did not appoint Dr. Trigg because of a court order. I would have resigned as Governor before bowing before such an order.

And the words "court order," Mr. President, are the crux of the whole thing. A court order in such matters, unsupported by the dignity and the integrity of a jury verdict, in a matter which involves the basic rights and freedoms of either an individual or the Governor of a State, should be given no more recognition in the annals of human relations than a proclamation by a Hitler or a Mussolini.

Mr. President, I urge my colleagues on both sides of the aisle, regardless of party affiliations, to avoid the pitfalls of hypocrisy and intellectual dishonesty.

I further urge all to lay aside political considerations and to stand as stalwart supporters of, and warriors for, the time-tested Anglo-American principle that each and every individual is entitled to be faced by his accuser, and to be tried by a jury of his peers.

Let us never forget that ours is, and should remain, a government of, for, and by the people.

The solution does not lie in the use of bayonets and laws raping orderly and time-tested court procedures, as was testified by General Eisenhower.

In this connection, I recall my observation to the press when the Supreme Court desegregation decision was handed down. I stated:

It has taken the Supreme Court 60 years to change its mind. If they will give us 50 years we will finally solve the problem and solve it right, and to the satisfaction of everyone.

Those are my sentiments now, Mr. President, and they always will be, so long as I live in the Southland, the land of my birth.

Mr. MUNDT. Mr. President, we have had a very interesting week, in which there has been sustained debate on one of the great controversial and historic issues before the country. It occurs to me that before we conclude the week it might be appropriate to have at least one speech from a voice in a neutral corner.

I live in an area of the land where there are no political potentialities to cultivate on this issue, and no political actualities to consider. As a consequence, I have been trying my best, from listening to the debate, from reading it in the pages of the RECORD, and from conferring with Senators on both sides of the debate to try to analyze the problem and to find, if possible, a reasonable solution to it. No one will deny that we are confronted with an important problem; no one will deny that we should try to find a solution on which all persons can agree.

During the course of my remarks, which will be comparatively brief for a topic of this kind, I shall discuss a proposal in the nature of a compromise which I believe might help to bring together the minds of Senators on both sides of this issue, who are seeking earnestly to find a solution which will be both acceptable and reasonable.

I shall first say a few words about the important subject of trial by jury, however, because, to me, that is one of the very significant aspects of the whole problem.

Seldom, if ever, in our recent history has any single measure so arrested the attention of the country and the Congress as the pending civil-rights bill. In an era when foreign relations and financial interrelations consistently capture headlines, we find ourselves today confronting an issue as old as it is timely, as exaggerated as it is real, as aggravated as it is simmering. Face to face, we stand before a compound of problems which, in an earlier period, and in an earlier form, tore the Nation asunder; which remain a perennial excuse for notoriety abroad, a compelling reason for magnanimity at home.

Mr. President, I pretend to enlighten no one when I assert that these are very human problems, yet I always find it personally enlightening to remind myself that they can be solved only by very human beings. This simple fact, so simple really that the sincere, erudite drafters of the civil-rights bill apparently overlooked it, is a paramount reason why I would find it prohibitively difficult to support a measure which denied alleged criminals a jury trial.

An amendment to the bill which would grant jury trials in contempt cases involving alleged crimes is bound to assist the cause of reason. And the cause of reason stands in desperate needs of support at a time when emotion has displaced reason in many parts of both the North and South. To provide for jury trials would place responsibility squarely upon the people to guarantee that civil-rights inquiries are fairly conducted and fairly resolved.

History lucidly testifies that reason cannot be served by failing to place faith and trust in the people. To distrust the people is to invite tension and reprisal. It is to invite perpetuation, indeed entrenchment, of the very problems men of good will everywhere are striving to solve on the floor of the Senate. It is to indict not only the South, not only the citizens of a few of our States, but in principle the entire people of the world's greatest Republic. It is to indict them on the charge of congenital injustice. To exclude a jury-trial provision from this sensitive, soul-searing measure is to perpetrate upon the American people a law with the moral character of a bill of attainder. Our entire great concept of self-government in America is in conflict with the concept that Americans cannot be trusted to serve on juries.

Alexis de Toqueville, the perspicacious Frenchman often quoted by my distinguished liberal colleagues, was well aware that America's jury system was integral to her concept of justice. De Toqueville did not praise our jury system as a historian, although he might well have done so; nor did he commend it as a political philosopher, though this, too, he might have done. Rather, his counsel of 100 years' vintage he offered as an observer, a critic of the American scene. The jury, he said, serves to imbue the minds of the citizenry with the qualities and character of the judge. Its operation, he realized, enhances among all people a respect for the verdict of the law—instructs them in fair thinking and fair dealing. It has the built-in virtue, he counseled, of remind-

ing each man, in judging his neighbor, that he, in turn, might be judged. The unique advantage of the jury, said de Toqueville, is its value as an educational device for a people who have chosen to govern themselves.

Needless to say, Alexis de Toqueville's was not a voice from the wilderness. Indeed, consult the writings of history's great legal scholars for praise of the jury system and we discover a virtual juridical hall of fame. The vivid impression secured from a perusal of these writings is that when, as in the present instance, reasonable men may dispute the allowance of a jury trial, the gathered wisdom or experience urges its retention.

Blackstone believed trial by jury was provided for in the Magna Carta and described it as "a trial that hath been used time out of mind in this nation, and seems to have been coeval with the first civil government thereof."

The drafters of our own declaration of rights in 1774 insisted that the colonists were entitled to "the great and inestimable privilege of being tried by their peers of the vicinage."

Thomas Jefferson, Benjamin Franklin, and all the drafters and signers of the Declaration of Independence, asserted deprivation of trial by jury to be one of our grave grievances against George III.

Our great Anglo-American forefathers were not prone to play recklessly with human rights. They were not prone to barter and manipulate and discard human rights like so many well-watered pieces of stock. When they found themselves confronted with a situation where it appeared that to protect more carefully one series of rights they must relinquish others, they knew that their search was not finished. They knew that their conclusions required reappraisal. They knew—because they reasoned—that if the story of aspiring democracy had been the story of exchanging rights won for rights not wholly won, democracy would hardly have developed beyond its primitive beginnings.

Our Anglo-American forefathers knew, too, that of all the rights they had earned, each at the cost of supreme effort, supreme devotion, sometimes supreme sacrifice, none was to be more highly prized than the right to trial by jury. The great Mr. Justice Story was aware of their conviction when he penned in his commentaries:

> The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy.

They were eminently grateful for, and scrupulously guardful of, this right, because they were cognizant of its history—with what difficulty it had been won, with what ease it could be lost.

Let us briefly review the headlines of this history. Trial by jury, as we know it today, has roots which were first nourished 800 years ago in England. Although it began as a means of extending royal knowledge and power its character gradually and markedly altered. More than 700 years ago, clause 39 of the Magna Carta provided that no freeman should be imprisoned, dispossessed, or in any way detained, except by a fair judgment of his peers and according to the law of the land. Modern scholars agree that this bold provision did not refer to trial by jury quite as we know it today. Rather, it was intended to put an end to rapacious King John's habits of taking hostages, levying exorbitant fines, and imprisoning nobles without even consulting his own council of barons. But both in its immediate effect and its later interpretation, the renowned clause did advance the idea that every man was entitled to a legal hearing before any penalty, detention, or dispossession could be ordered.

By the time of the arrival of the 16th century, the jury concept had grown and matured to the point where clearly juries were no longer merely evidence-giving bodies; they had become vitally important units for the making of important factual decisions.

Surely the greatest threat to jury trial in an ascending England occurred with the rise of the Star Chamber. This was an institution, created with the purest of intentions, to overcome the abuses of a few powerful noblemen and to compensate for small deficiencies in the jury system. Established by the King, the Star Chamber was, in 1487, given specific jurisdiction to hear and settle in closed session any disputes—legal, judicial, or administrative—in which the interest of the King was involved.

Initially, the Star Chamber performed a useful function, partly because the task of containing the disputes and extravagances of rebellious barons had long been neglected; partly because the sometimes cumbersome, cautious, deliberate jury system had been replaced by a swift, efficient, dedicated executive device. However, as with other institutions founded in the best of faith and specially equipped to handle certain immediate problems, the Star Chamber came to extend its domain into fields where it should never have gone. Under Charles I, it undertook to punish religious writers whose opinions it questioned; to impose censorship on all printed matter; to mete out cruel and unusual punishments for minor political offenses. Clearly it had outlived its usefulness as a method for controlling rebellious barons. It had become—and remember, Mr. President: those of us who ignore history must but repeat it—an instrument for religious and political persecution.

The Star Chamber, with its denial of the trial by jury which Englishmen had come to feel was a fundamental right, constituted one of the telling grievances against King Charles I. Accordingly, it was a crucial element in his fall. One of the first acts of the Parliamentary Party, after it gained supremacy, was to abolish the Star Chamber in 1641, and to assert the right of every Englishman to a fair and open judgment by his peers.

Unhappily for England, the lesson of her own foreboding experience in maligning the right to trial by jury was in part forgotten in her dealings with the American Colonies. While on the whole the administration of justice in 18th century colonial America followed the English pattern, the attitude of the colonists was from the first different. Having no reason to be fearful of feudal exactions or exploitations, the colonists viewed the King, not as their protector, but, rather, as himself a potential aggressor upon their rights. And in this spirit they courageously protested, as an act of royal tyranny, every effort to limit trial by jury.

A favorite English technique for assuring swift and certain conviction was to extend the jurisdiction of the admiralty courts. Although these courts were not a part of the common-law system, their denial of trial by jury to accused colonists proved especially effective. English or English-appointed judges could usually be relied upon to convict summarily, and often arbitrarily, colonial merchants and seamen. The more powerful and pervasive the admiralty courts became, the more deeply the American colonists resented them, and the more they came to insist upon trial by jury as a fundamental right.

The Stamp Act of 1764, offensive enough in its imposition of taxation without representation, added insult to injury by providing that all violations were to be tried in the admiralty courts. To the American colonists, the Stamp Act represented, among other things, deprivation of the right to trial by jury. The reaction against it was so fierce—recall, Mr. President, the Virginia resolutions proposed by Patrick Henry, the nullifications by various State legislatures, and, above all, the boycott of all English merchandise—that within 2 years the English had no alternative but to repeal the ruthless measure.

The final British effort to usurp jury trial from the Colonies came with the Act for the Impartial Administration of Justice, one of the intolerable acts of 1774, passed in retaliation to the Boston Tea Party. This act provided that certain colonial offenders were to be transported to England. This repudiation of the colonists' own right to judge their fellow citizens was one of the last acts which made reconciliation with England almost impossible, and thus provoked the war for American independence, and gave birth to this new Republic.

So aware were our constitutional founders of the supreme value of trial by jury, that twice they attached it in the Bill of Rights. The right to jury trial is guaranteed by the sixth amendment, in criminal cases; by the seventh, in civil cases. Devotion to this principle was so deeply imbedded in the minds of the colonists that even when the panic over the French Revolution struck America, and the alien and sedition laws were passed, trial by jury was guaranteed to any citizen accused of seditious activity.

Yes, Mr. President, trial by jury, although originating in England as a means of extending royal knowledge and power, was adopted in America as a means of insuring local protection from a remote and tyrannical administration. Deeply rooted in the American concept of government, it has withstood the attacks of the executive in wartime, and of the mob in peacetime, and this it must continue to do.

Mr. President, I have listened with great interest and profound admiration to the persuasive arguments made by my distinguished colleagues on behalf of both sides of this controversial issue. Since I am not a lawyer, I have taken special pains to study privately the brilliant legalistic rhetoric the debate has inspired. I must say that the task of reducing to bare essentials the wealth of heady, proliferated, legal argument has often been less than easy. What I have gleaned is this:

First. That those who wish to exclude a jury-trial provision from the civil-rights bill are not fabricating juridical tradition when the contend that there exists no absolute right to jury trial in injunction or contempt-of-court proceedings;

Second. That, on the other hand, Congress undertook to guarantee the right to trial by jury to laborers in precisely such proceedings, first through the Clayton Antitrust Act, then more effectively through the Norris-La Guardia Act;

Third. That juries have been known to make mistakes, sometimes erring in favor of the accused;

Fourth. That, on the other hand, judges also have been known to make mistakes, sometimes erring in favor of the accusor;

Fifth. That the jury procedure can operate more slowly, more cumbersomely, than a compact judical organ guaranteed to assure and promote swift processing and decisive results;

Sixth. That, on the other hand, to confront the most emotional, potentially combustible issue in American life with an approach that scraps jury trial and other safeguards of individual liberty is to thwart the great progress toward solution already made, and to invite insidious retaliation by denying responsible participation.

Mr. President, I think all of this is summarized quite well in certain paragraphs of an editorial published recently in the Washington Evening Star under the intriguing heading of "Swapping Civil Rights." Incidentally, let me say that the editorial was commenting on a very fine speech on the subject made by the present occupant of the chair, the distinguished senior Senator from North Carolina [Mr. ERVIN]. The particularly significant portions of the editorial to which I refer begin with a discussion of the most extreme danger which confronts Congress as it begins to act in the present instance. I now read a portion of the editorial, as follows:

> The danger is in the expedient advocacy, by men anxious to accomplish an end which they find immediately desirable, of broadening the injunctive process far beyond its previously narrow field; perverting, in fact, its historical use, and coupled with the power of punishment for contempt, utilizing it in a new and extensive field of criminal law.

Mr. President, the truth is simple:

The history of jury trial is replete with evidence that when it is crushed, to solve expeditiously an immediate problem, there is grave risk of initiating a chain-reaction. Opponents of the jury-trial amendment somberly claim that its addition would emasculate the civil-rights bill, that southern jurors might be reluctant to convict. This argument is as old as it is shortsighted. It is the same justification that was given for the establishment of the Star Chamber, for the ruthless acts of Parliament depriving colonists of jury trial, for the opposition to jury trial for workers involved in labor disputes. Historically viewed, it stands as the favorite argument of the absolutist, an indispensable tenet of tyranny or mobocracy. It is an argument which must be gravely questioned by those who hate judicial tyranny even more than they love judicial haste. It is an argument which denies the individual juror's capacity for justice and fairness, and in so doing places in jeopardy not only a judicial instrument nurtured and refined through 700 years of experience, but also the entire concept of responsible self-government conducted by reasonable men.

It is thus an argument which is anathema to our basic American concepts. The reasons for including the jury-trial amendment in the civil-rights bill become still more compelling if we relate them to the problem we confront on the Senate floor. The undeniable truth of the matter is that untold—and I use the word advisedly—untold and unreported improvements in race relations have taken place in the South and throughout the country in recent years. In the 11 Southern States, almost 10 times more Negro citizens were eligible to vote in 1956 than were eligible in 1941. Between 1952 and 1956 alone, the number is estimated to have increased by more than 200,000. Twenty-four southern cities have voluntarily ended bus segregation in recent years. Numerous instances of the voluntary ending of discrimination in hiring have been recorded. Medical associations in all but one Southern State now accept Negro doctors. The number of public libraries which offer services to Negroes on the same basis as whites has increased from 3 in 1941 to 88 today.

I cite these statistics—many more could be cited—to demonstrate that the South is not unaware of past and present inequities. The vast majority of her citizenry are deeply concerned with the matter, and a quiet counterpart to the stridences of the perennial Congressional battle has been the decisiveness with which the South has moved to solve her own difficulties.

Mr. President, I do not, however, cite the foregoing statistics in the belief that progress has been fast enough in developing equality of opportunity—at the polls and elsewhere—throughout the South. It has not in fact been fast enough, and it has not gone far enough. However, it is equally true that there has been progress. The South has not been indifferent toward the problem which now involves the time of the Senate. It has been moving, and, Mr. President, it has been moving in the right direction.

Appropriate legislation can be enacted, and in my opinion should be enacted, to expand and expedite these improvements. Certainly, few would deny, and I would not uphold any who would deny, that our Negro citizens have fully as much right and should enjoy fully as much opportunity to vote in our national elections as do the remainder of our American citizens. Where such opportunities are now denied, Federal legislation is appropriate to provide them completely and beyond all question.

I refer to the commendable progress which is taking place in the South with regard to this ancient problem simply to emphasize my basic theme that I believe the South can be trusted to operate a jury system.

In short, the citizens of this great section of our country have not abdicated responsibility, as many would have us believe. The willingness to assume genuine responsibility; that is the pivotal question. To argue that southern jurors are so utterly faithless to their oaths and duties that they are incapable of responsible action is a gross contravention of fact. Were the jury trial provision excluded from the civil-rights bill, we would be scorning the great gains in justice already achieved in the South, debilitating the spirit of responsible action so ardously cultivated.

Mr. President, I submit that to judge the South on the basis of her noisiest extremists is no less just than to pass a law in deference to the noisiest extremists of the North. In very recent days, the inestimable virtue of our bicameral system has again been proven. As had happened frequently in the past, the pause between passage in one house and deliberation in the other has proved to be "the pause that refreshes"—it provides for rational refreshment. And the dictate of reason is clear: If we view this issue in its widest, broadest, most realistic terms, we can but conclude that the presence of justice is as necessary to the right of trial by jury as is the right of trial by jury to the presence of justice.

Mr. President, I again quote from the editorial which appeared in the Washington Evening Star, to which I referred a few moments ago, entitled, "Swapping Civil Rights," because it touches on another very significant aspect of this discussion—as to whether or not, to achieve a certain objective, we should scrap the constitutional right that Americans have had of trial by jury. It steps on a sore toe, insofar as some of the conservatives of America are concerned, who now advocate the elimination of the right of trial by jury to achieve this particular objective, and it steps on that sore toe by reference to the late and unhappy effort of Franklin Delano Roosevelt to pack the Supreme Court of the United States. The editorial reads in part:

> The attempt to pack the Supreme Court was made by an honorable and upright Attorney General, under the direction of his President, as a method of accomplishing what they believed to be a desirable end. This expedient extension of the injunctive and contempt processes to enforce old laws in new areas has been put forward by another honorable and upright Attorney General to get around admitted difficulties in obtaining convictions by jury in civil-rights cases. He is doing it for what he believes to be a desirable end, and his President is more familiar with the end than with the means employed to reach it.
>
> We do not believe the parallel is overdrawn. We applaud the Senators of the

minority who are attempting to show the cost in damage to one civil right demanded as the price of strengthening another. Those who defeated the Court-packing plan were also, at one stage, in the minority.

I suggest for a careful weekend reflection to those who may read these remarks in the quiet of a Sunday afternoon, the significance of that profound statement in the editorial of the Washington Evening Star.

I suggest for the careful reflection of constitutionalists around the country the parallel existing between those who, a decade or so ago, would have scrapped the Supreme Court and those who today would scrap the jury system, each for his own particular objective.

Mr. President, we can all remember the Supreme Court packing attempt of the Roosevelt administration. There the argument was very similar to that which we hear today from those who argue that the South cannot be trusted to operate the jury system in questions involving the constitutional rights of American citizens. Only, in the days of Franklin Roosevelt, those in authority then held that the Judges of the Supreme Court could not be trusted to interpret or to rule upon the constitutional rights of American citizens.

I believe Congress was eternally right when it refused President Franklin D. Roosevelt's efforts to pack the Court with Judges carefully chosen to achieve a specific objective. I believe, equally, that Congress will be eternally right if on the occasion of this controversy, we preserve the right of trial by jury and reject the temptation to detour a constitutional procedure in an impatient desire to achieve a specific objective in the South.

This calls to mind an experience I had about 2 years ago as a Lincoln Day speaker in the unusual situation of a Republican addressing a joint session of the Legislature of the State of Mississippi, in Jackson, Miss. I was invited to discuss, before a totally Democratic audience comprised of the estimable membership of the Mississippi Legislature, all of whom were Democrats, the Republican point of view on the issues of the day. I was happy to accept that unusual invitation, especialy since I was told I was the first Member of the United States Senate of Republican affiliation to speak in the capitol of the State of Mississippi since the War Between the States.

Interestingly enough, I arrived in Jackson, Miss., at the time when the controversy was raging through the South about the so-called Miss Lucy case involving the young colored lady who wanted to attend one of the southern universities.

When I arrived at the capitol I was met by a press corps, surrounded by the distinguished members of the State legislature, which I was about to address. Instead of questioning me about the Republican administration, what the Eisenhower administration proposed for the country, and what the Republican principles were, about which I expected to speak to that distinguished audience, I was asked what I knew about the Miss Lucy case. I knew very little about it. It involved the type of problem which does not occur in the great State of South Dakota or in the Middle West. They found their questions on that matter fruitless, and they began to question me on what I thought about the Supreme Court decision involving desegregation of the public schools in general.

Into that controversy, of course, the members of the legislature injected themselves, because I was a Republican. I suppose they were employing some friendly partisanship and needling me a bit about the Supreme Court decision. My answer was substantially, Mr. President, this:

"I am not a lawyer, and so I hesitate to pass any curbstone opinion as to the decision of the United States Supreme Court. I hesitate to say whether or not it was in keeping with and in conformity with the Constitution of the United States, as a constitutional lawyer might interpret it. However, I can tell you good friends of Mississippi clearly and cogently and consistently that if the decision of the Supreme Court on desegregation was wise, and good, and sound I am about to have the privilege of addressing a distinguished audience in the State of Mississippi who, probably more than any other like number of Americans, can accept full praise and take full credit for the decisions of the Supreme Court, and if the decisions of the Supreme Court were wrong, and were faulty, and were bad, then I am about to have the privilege of addressing a distinguished audience in the State of Mississippi who, probably more than any other like group of Americans, have to accept responsibility for the fact that the Court ruled wrong and that we had a Court which ruled improperly. This, my friends, is true of the Court, whether right or wrong, because I know that 8 of the 9 judges who made that decision of the Supreme Court were appointed by Presidents of the Democratic Party which represents the people I am about to address in the State of Mississippi. You of Mississippi plus the solid South, more than any other group, consistently, without exception for 20 years, returned to power a party and a President who appointed members of the Supreme Court who made the decisions and you are thus directly responsible for the decisions of the Supreme Court. Comprised of members appointed by the New Deal and Fair Deal Presidents you elected."

I happened to be a Republican through all those years, Mr. President, as I am today. To the best of my ability, I opposed consistently from 1932 through 1952 the efforts of the Democratic Party to keep in power the Democratic Presidents who appointed the Justices of the Supreme Court who made the decisions on the segregation case.

Thus, those who supported the Democratic presidential candidates in 1932, 1936, 1940, 1944, and 1948 and not those of us in the Republican Party who tried to defeat these Democratic Presidents, must accept the responsibility and receive the praise or blame for the Supreme Court Justices they appointed.

I mention that simply because I think that the folks of the South also should realize, when sometimes they now point a finger of scorn at the present Attorney General, who has to enforce the decisions of the Supreme Court, or at the present President of the United States, who has the responsibility to support the Constitution of the United States and takes an oath to support it, that whatever the consequences are, the South today is having to pay the penalties, if there be penalties, for the fact that so consistently and so abjectly and so unanimously they voted, in election after election, time after time, for an administration which not only talked against what the South considered to be its best interest, but appointed the Justices of the Supreme Court who interpreted the Constitution of the United States to be against what the South believed to be a proper interpretation.

Having said that, Mr. President, I do not expect to be among those who intend to take punitive action against the South, which has now received that for which it asked by its abject surrender of its political power to a political party controlled by New Deal and liberal labor bosses in the North, who gave very little heed to the interests of the South. I expect to look at this measure as rationally, dispassionately, and as completely without partisanship as it is possible to do.

Mr. President, turning briefly to another aspect of this current controversy, let me repeat here something I said informally a week ago today, while visiting with some friends of mine from the press corps who dropped into my office. Last Saturday I told these reporters that I both hoped and believed a reasonable and rational compromise could be evolved from the legislation now before us, which would fully and effectively protect the voting rights and opportunities of our Negro citizens without giving new police powers to the Federal Government to enforce at the point of the bayonet or with threats of imprisonment the social and economic implications in the proposed bill, which we are discussing. I said then, and I repeat now, that I am confident we can bring about a meeting of minds which will produce a bill which the South can live with and to which the Negro is entitled, even though there are many in the South who might still oppose its passage.

Mr. President, nothing said or done within the past week has lessened my confidence that the great American formula of making progress by accommodation and compromise can occur in connection with the existing controversy.

Our Constitution, in itself, is the glorious creature of Americans recognizing progress can be made by compromise. It is true, of course Mr. President, that extremists at both ends of this debate will of course object. There will be some who beat their breasts and loudly shout that they must have all or nothing. There will be some who look upon compromise as though it were treason to one set of advocates or the other. But compromise, sir, is the process by which legislation usually flows through the Congress of the United States, and by which the executive and legislative branches of Government pool their thoughts and talents in producing progress. Obstinacy in these halls usually produces a

sterility of results which serves to perpetuate an issue but which fails to provide the solutions to a problem. I have been gratified by the many manifestations of openmindedness and the comparative freedom from obstinate obstructionism which I have heard both on the floor of the Senate and in private conference during the past week of this debate. Our agreement by unanimous consent to vote on whether the instant legislation should be put on the calendar at 4 o'clock next Tuesday is one constructive product of this spirit of accommodation and of compromise.

Mr. President, I am encouraged in my desires and my efforts to help bring about a meeting of men's minds on the most essential and least controversial aspects of this legislation by a statement made on the floor of the Senate yesterday by our distinguished majority leader, the Senator from Texas [Mr. JOHNSON]. I quote here a portion of that statement. The majority leader [Mr. JOHNSON] said:

> There will be some who insist that it is little short of treason to dot a single "i" or cross a single "t" in passing the civil-rights bill. There will be others who will insist that it is the height of infamy to approve a single "i" or cross a single "t."
>
> But I think the American people have more sense than that.

A little later in his statement the majority leader [Mr. JOHNSON of Texas] said:

> I think the American people want Senators who are honestly convinced the bill is bad to vote against it, and those who are convinced the bill is good to vote for it. And I think they want Senators who believe changes are necessary to press those changes vigorously.

Mr. President, let me repeat that last statement of the majority leader, because that is the policy I take this time, on a late Saturday afternoon, to propound and project. It is that policy which I intend to pursue next week when, as, and if we get to the voting stage of procedure on this bill.

The majority leader said yesterday, wisely in my opinion, and I salute him for it, referring to the American people:

> I think they want Senators who believe changes are necessary to press those changes vigorously.

Later in his statement, the Senator from Texas [Mr. JOHNSON] said, speaking as our majority leader:

> There is only one clear-cut path. It is to examine the facts and vote accordingly. We must reason together and try to arrive at a position which will serve all the people of America according to the standards of decency and traditional freedoms.

I propose to enlist myself in an effort in that direction. In fact, for well over 10 days I have already been a recruit in that self-denominated army of Senators seeking a sound and sensible solution.

Mr. President, those statements of our majority leader are a far cry from those who proclaim, "Compromise is impossible—we must have total victory or a complete defeat—this is an all or nothing choice."

As I said a week ago to the reporters in my office, effective guaranties for all Negro citizens that wherever they live they will have their full rights and opportunities as American citizens protected so they can vote freely and of their own volition in every national election will be a major forward step in our American political life.

And as Walter Lippmann said recently in his column in the New York Herald Tribune:

> Insofar as the right of southern Negroes to vote can be secured and protected, they will acquire powerful means for establishing all their rights. * * * A disfranchised minority is politically helpless. Let it acquire the right to vote, and it will be listened to.

Mr. President, I agree with Walter Lippmann on that basic theme. I believe this Congress at this session can and should secure and protect the right of all American Negro citizens to enjoy the same constitutional rights to vote as those enjoyed by all other American citizens. If we amend or change the legislation passed by the House so that it accomplishes that objective specifically, I am confident the great bulk of American public opinion will applaud our actions and give due credit to those in the administration and in Congress who insist upon it.

However, by permitting this legislation to make reckless excursions into other aspects of the economic and social structures of our great Nation or by insisting on creating commissions with ill defined authorities and self-propelled privileges to embarrass and harass a considerable segment of our population we get our eyes off from the basis objectives of the bill and add a fabrication of bureaucratic pomp and power which may well defeat the desires of those who want the Negro citizen to have his right to vote but who also believe that such ancient constitutional dogmas as the 10th amendment and the rights of private citizens should be perpetuated. If other reforms are later necessary, let them stand on their own feet and be argued on their own merit. Let us not utilize the right to vote concept which is cherished by so many to force upon the statute books adventures in acrimony and reckless grants of power which are desired by so few and which are of such doubtful necessity or equity.

Mr. President, in my opinion H. R. 6127 can be easily enough amended to make of it a bill which I believe should be acceptable to the vast majority in Congress and in the country. I have given it long and careful study. I have discussed its basic features with many on both sides of this current controversy. I believe it can be adopted in a week or two of reasonable debate, or if more time is required to reach agreement I believe it can be adopted early next January should it be decided to postpone final action and debate until a date certain when we resume our Senate deliberations in January.

I have talked with many in the neutral corner, to which I belong, and in which there are more Senators than many on both sides of this issue seem presently to recognize. I find a genuine and growing desire to enact a bill devoid of bitter controversy designed to guarantee our Negro friends the right to vote.

In its attempt to give the vote to our Negro citizens in areas where their constitutional rights are restricted or violated, the bill is couched in clear and effective language. I suggest we delete the portions which are vague and questionable—at times so vague and uncertain that even the sponsors of the legislation cannot agree among themselves what they really mean or what they are designed to do.

Let me discuss, briefly, what I believe can be done to this legislation to make it both clear cut and acceptable. Speaking as one who lives in a State where we can view this controversy in complete objectivity and as one who has visited many times every State in the South, I offer these remarks in the interests of bringing us to a meeting place which will enable us to legislate without undue delay and without unnecessary rancor in order to achieve the full voting rights for our Negro citizens which are so frequently argued as the real reason for this legislation and in order not to becloud the issue nor to befuddle our decisions with other aspects which are not only less important but which most obviously are less clear cut and understandable as all who have heard or read the debates of this week must clearly recognize.

I believe that, without too much change, House bill 6127 can be made into legislation upon which the United States Senate can agree.

I suggest, for example, that the first change which needs to be made in this legislation occurs on page 2, at the bottom of the page, in subsection (d) of section 102 of part I. There is a curious paragraph which reads as follows:

> The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

I am not sure what that means, but I am sure that that is vesting in the chairman of a commission powers and authorities which the liberals refuse to give the chairmen of Congressional committees engaged in investigative work. I see no particular reason why Members of Congress, unable to get for their own chairmen authority to maintain decorum and order in a committee room, should delegate to others power which the others say Congress should not be trusted with.

What is meant by "censure" I do not know, and I doubt if the framers of the bill do. I suggest that that paragraph be deleted from the bill at least until such time as those advocating it also advocate giving the chairmen of Congressional investigating committees the same identical authority.

I turn to page 4 for my second proposed change, in what I call a revised copy of House bill 6127. On page 4 we find subsection (k) of section 102 of the

bill, dealing with rules of procedure of the Commission. It provides as follows:

The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business.

To that I would add the significant clause:

And it shall not issue any subpena for any reason other than to investigate alleged violations under section 104 (a) of this act.

That is the subsection on the following page, page 5, which confines the power of the Commission to investigation of allegations in conection with the right of the Negro to vote. I would retain for the Commission its subpena powers in that field, but grant it no subpena power beyond that. If this is intended to be a bill to protect the right of the Negro to vote, we want to provide the necessary enforcement machinery to make that possible. For that reason, I think the Commission should have that subpena power, but I do not think it should have subpena power to go across the length and breadth of the country, yanking private citizens out of their homes, their offices, and their shops to embarrass and harass them with subpenas and question them under other vague and indefinite provisions of the act.

The third change I propose is to strike out, at the bottom of page 5, subsection (2) of section 104, and, at the top of page 6, to strike out subsection (3) of section 104.

Those are the sections which would give, along with the subpena power of the Commission, a great deal of vague authority to subpena witnesses for purposes of appraisal of enforcement of the act, and for purposes of attempting to determine whether or not other laws under the Constitution might be being violated.

This is a reversion to the Star Chamber proceedings of early English history. This is an ill-designed grant of power to a Commission to do everything to everyone, for any reason it conceives. I do not believe that the Senate should legislate as loosely as is proposed in that language.

I would substitute for those two subsections the following two. I suggest a new subsection (2) of section 104, to read:

(2) Hold public hearings, hear voluntary witnesses, and to issue reports appraising the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution and concerning legal developments constituting a denial of equal protection of the laws under the Constitution.

I suppose the Commission should have some powers aside from those relating only to voting. There are some problems outside the realm of voting which I think need attending to. I suggest, therefore, under subsection (2), that the Commission be authorized to hold public hearings and hear voluntary witnesses—and I point out that they must be voluntary witnesses. They must not be subpenaed—and issue reports appraising the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution and concerning legal developments constituting a denial of equal protection of the laws under the Constitution.

Let the Commission provide a forum where those who wish to do so can come and testify about discrimination if there be any and to discuss violations of laws under the Constitution of the United States, but let us not give the Commission police power to subpena and drag into open hearings citizens who might be reluctant to provide any information on the subject or who might be victimized by an all-powerful Commission.

As a new subsection (3) I propose the following:

(3) To make such recommendations as it deems desirable to the legislatures of the several States, to the President of the United States, and to the Congress of the United States with regard to legislation it feels is essential to the protection of all citizens in the exercise of their rights under the Constitution of the United States.

I want to see all citizens—black, white, red, and yellow—from whatever land they come, who are citizens of this great land, have equal protection and equal rights under the Constitution of the United States.

If the Commission finds, from its surveys and from hearing voluntary witnesses, that constitutional rights are being violated, it is empowered to recommend to the President, to the Congress, or to the legislatures of the States involved the necessary remedial legislation. The next change I propose in H. R. 6127, in an effort to bring it into a form on which men may agree, occurs on page 9, where I propose to strike out, in its entirety, part III of the bill.

This, it seems to me, is one of the most controversial sections of the bill, one of the least understood, one on which the sponsors of the legislation most frequently disagree, one which I think is entirely unnecessary if we are to maintain the American approach to the solution of this problem at this time.

Beyond that, I would make just one other change in the bill. I propose, at the end of the bill, to add the O'Mahoney amendment as section 151, providing as follows:

SEC. 151. In any proceeding for contempt of any injunction, restraining order, or other order issued in an action or proceeding instituted under the fourth paragraph of section 1980 of the Revised Statutes or under subsection (c) of section 2004 of the Revised Statutes, the court shall, if it appears that there are one or more questions of fact to be determined, order that such questions of fact shall be tried by a jury in a trial conducted according to the mode prescribed by law for suits coming within the purview of the seventh amendment to the Constitution of the United States.

I ask, Mr. President, to have printed at this point in my remarks the complete text of my revised version of H. R. 6127 as I propose that it should read.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

PROPOSED REVISION OF H. R. 6127 TO CONFINE ITS POLICE POWERS TO THE PRIMARY OBJECTIVE OF ASSURING ALL AMERICAN CITIZENS EQUALITY OF VOTING RIGHTS AND OPPORTUNITIES

(By Senator MUNDT)

An act to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

*Be it enacted, etc.—*

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

*Rules of procedure of the Commission*

SEC. 102. (a) The Chairman or one designated by him to act as Chairman at a hearing of the Commission shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses.

(e) Except as provided in sections 102 and 105 (f) of this act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(f) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than $1,000 or imprisoned for not more than 1 year.

(g) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

(h) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

(i) A witness attending any session of the Commission shall receive $4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(j) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business, and it shall not issue any subpena for any reason other than to investigate alleged violations under section 104 (a) of the act.

*Compensation of members of the Commission*

SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

*Duties of the Commission*

SEC. 104.(a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) hold public hearings, hear voluntary witnesses, and to issue reports appraising the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution and concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

(3) to make such recommendations as it deems desirable to the legislatures of the several States, to the President of the United States, and to the Congress of the United States with regard to legislation it feels is essential to the full protection of all citizens in the exercise of their rights under the Constitution of the United States.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than 2 years from the date of the enactment of this act.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

*Powers of the Commission*

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a), but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12). Not more than 15 persons, as authorized by this subsection, shall be utilized at any one time.

(c) The Commission may constitute such advisory committees and may consult with governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Members of the Commission, voluntary and uncompensated personnel whose services are accepted pursuant to subsection (b) of this section, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U. S. C. 99).

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such chairman.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

*Appropriations*

SEC. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights."

(b) Designate its present text with the subsection symbol "(a)."

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engaged in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

"(e) Provided, that any person cited for an alleged contempt under this act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel."

SEC. 141. This act may be cited as the "Civil Rights Act of 1957."

PART V—JURY TRIALS IN CERTAIN CONTEMPT CASES

SEC. 151. In any proceeding for contempt of any injunction, restraining order, or other order issued in an action of proceeding instituted under the fourth paragraph of section 1980 of the Revised Statutes or under subsection (c) of section 2004 of the Revised Statutes, the court shall, if it appears that there are one or more questions of fact to be determined, order that such questions of fact shall be tried by a jury in a trial conducted according to the mode prescribed by law for

suits coming within the purview of the seventh amendment to the Constitution of the United States.

Mr. MUNDT. In brief, Mr. President, what I have proposed in the foregoing revised version of H. R. 6127 would do the following things:

First. It would leave intact the voting provisions which protect our Negro citizens in their full constitutional rights and opportunities as voters.

Second. It would limit the President's Commission to two functions:

(a) To subpenaing witnesses and aiding in the enforcement on any developments which might tend to impair the Negro's voting rights and opportunities.

(b) To making studies, hearing voluntary witnesses—it would have no power of subpena on such matters—with regard to proposals for bettering social and economic conditions and opportunities for our Negro citizens so that recommendations by the Commission might be made to the legislatures of our respective States, and to the President and to the Congress of the United States.

Third. It would empower the Attorney General to appoint the Assistant Attorney General he desires and which part II of H. R. 6127 provides.

Fourth. It would eliminate entirely the controversial, vaguely drawn, and Federal police-power provisions of part III by striking that entire article from the legislation.

Fifth. It would leave part IV of the bill intact.

Sixth. It would incorporate the provisions of the so-called O'Mahoney amendment to provide for trial by jury in all cases involving questions of fact. Thus it would preserve for all Americans the right of trial by jury which H. R. 6127 proposes to deny for the fine, loyal people of the South with regard to certain matters.

Mr. President, I voted against the Knowland motion to detour the Senate committee on this legislation. I did so because I believe so strongly in our committee system just as I believe in our bicameral legislative concept. I may have more to say on this when we discuss the so-called Morse amendment which I expect to support in some amended version or as it is. I really believe, however, the date-certain on when the Senate Committee of the Judiciary should be required to bring this bill back to the Senate and place it on the calendar should be something less than the 2 weeks proposed in that amendment. In all events, I may have something more to say about the importance of our committee system and my reasons for voting against the direct consideration of H. R. 6127 without benefit of committee action when we reach the place in this debate when that issue is the immediate subject of our discussion.

Mr. President, I really feel that if the Judiciary Committee were compelled by the Senate to report H. R. 6127 back to the Senate on an early date-certain it would bring to us a legislative proposal not distantly removed or greatly changed from the proposed revision which I have just discussed and which I have had printed as a part of this address. I am fairly certain that great committee would surely not bring us a bill which would deny Americans the right of trial by jury.

However, should the effort to give the Judiciary Committee a specified, limited opportunity to report this bill be unsuccessful, I continue my confidence that we can here on the floor of the Senate reach a compromise on this matter which will be similar in purpose and content to the revised form of H. R. 6127 which I have today proposed, and which I shall undoubtedly offer in the nature of a substitute for H. R. 6127 if no other steps are found to bring about a reasonable meeting of minds among those who ardently advocate and those who most resolutely reject the present provisions of H. R. 6127. I believe there are enough of us on the Senate floor who prefer reasonable and rational progress on the matter of civil rights to the alternative of enhancing the police power of the Federal Government beyond the point of reason and necessity so that some such compromise as we are advocating will eventuate. The Senate can then go about its business of completing action on other important legislation and adjourn proud of its achievements and unscathed by the lasting bitterness which a rule-or-ruin attitude could so easily create.

Mr. President, to close my speech let me say that, in part, I am encouraged and reinforced in taking this position by some splendid editorial writing by that great American, David Lawrence, in one of his recent columns.

One of his recent columns in the Washington Evening Star is, I think, especially illuminating and especially pertinent to the line of argument I have just advanced. For that reason, I ask unanimous consent to have printed at this point in the RECORD as a part of my remarks Mr. Lawrence's article entitled "Real Issue in Civil Rights Fight—Threatened Use of Force To Obtain Conformity on Problem Is Decried."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAL ISSUE IN CIVIL-RIGHTS FIGHT—THREATENED USE OF FORCE TO OBTAIN CONFORMITY ON PROBLEM IS DECRIED

(By David Lawrence)

What is the real point at issue in the battle over civil rights now being waged in the Senate? It is the possible enactment of a law threatening the use of military force in order to obtain a conformity of viewpoint on social problems. It is the substitution of a program of compulsion and coercion for faith in the voluntary processes of reason.

It involves not solely a means of assuring voting rights—for many Negroes do vote in the South and several have been elected to city councils there—but a question of reaching into the whole social order in the South with laws authorizing the use of military power to secure obedience to the Supreme Court's decision on school integration. Yet the Court itself admitted in the same decision that it was influenced primarily by sociological doctrines rather than constitutional precedents.

For the school question and the voting problem are interwoven in the civil-rights controversy and, curiously enough, the remedy proposed would take away the civil right of a citizen to a jury trial, the principle of which is embedded in the Constitution.

Just because there have been a few instances of racial prejudice in some jury trials in the South, it now is argued by various Members of Congress and executive officials in their speeches that none of the tens of millions of people in the South can be trusted to give an impartial trial by jury.

This is a blanket indictment more severe than ever has been leveled in America against a substantial number of fellow citizens by the representatives of another segment of the Nation.

For the proposal implies that because the processes of reason are beset with difficulties there must be resort to the theory that the end justifies the means.

This same thing happened once before in perhaps the most shameful chapter in American history when, after the War Between the States had ended and a general amnesty had been proclaimed, military units from the North were sent into the legislative chambers of the Southern States. At the point of a bayonet, ratification of the 14th amendment to the Constitution was compelled in 10 States after each had rejected it. Southern Members of Congress thereupon were arbitrarily disqualified from voting in either the House or the Senate, notwithstanding the fact that previously the southern Members and their legislatures had in due form approved the 13th amendment abolishing slavery and this action had been accepted as legal ratification. No historian of standing in either the North or the South disputes these facts.

For 90 years there has been a virtual truce in the northern and southern conflict as to the scope of the 14th amendment, and the racial problems it presumably covered. Meanwhile, there has been nevertheless a gradual evolution with tremendous progress toward a better understanding between the races. The doctrine of separate but equal facilities in public schools which was upheld as the supreme law of the land until 1954 was a kind of modus vivendi—a compromise between apparently irreconcilable viewpoints yet one that actually encouraged more and more flexibility through the years.

Now the truce has been broken and, instead of trying to adjust conflicting viewpoints by letting each State or each community within a State decide for itself how it shall move toward the solution of its own social problems—a basic American concept of self-government—the confusing court decisions and the threat of coercive "civil rights" legislation are retarding progress. Impatiently the doors are opened to bitter resentments which will grow in intensity because compulsion is the wrong way to deal with social problems in a democracy. Inevitably also there will be revived the whole controversy over the unmoral and illegal way by which the 14th amendment itself was forced into the Constitution in the first place.

"I speak in a spirit of great sadness," said Senator RUSSELL, Democrat, of Georgia, the other day in the Senate. "If Congress is driven to pass this bill in its present form, it will cause unspeakable confusion, bitterness and bloodshed in a great section of our common country. If it is proposed to move into the South in this fashion, the concentration camps may as well be prepared now because there will not be enough jails to hold the people of the South who will oppose the use of raw Federal power forcibly to commingle white and Negro children in the same schools and places of public entertainment."

Thus after nearly a century of debate, America is again hearing speeches in Congress about the use of military forces to back

up social viewpoints. This comes, ironically enough, at a time when spokesmen for the United States in the world at large are appealing constantly for the "renunciation of the use of force" as a means of dealing with human friction.

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ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate convenes on Monday there be a period for the transaction of routine morning business, with statements limited to 3 minutes.

I may say to my friend, the distinguished Senator from South Dakota [Mr. MUNDT] that this is agreeable to the minority leader.

Mr. MUNDT. I thank the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A. M. ON MONDAY

Mr. MUNDT. Mr. President, if no other Senators desire to address the Senate, I move, in accordance with the order previously entered, that the Senate now stand in recess until 10 o'clock a. m. on Monday.

The motion was agreed to; and (at 6 o'clock and 50 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until Monday, July 15, 1957, at 10 o'clock a. m.

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# EXTENSIONS OF REMARKS

## Boys Town 40th Commencement Exercises

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EXTENSION OF REMARKS

OF

## HON. ROMAN L. HRUSKA

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

*Saturday, July 13, 1957*

Mr. HRUSKA. Mr. President, it was my great honor to be the speaker at the 40th commencement exercises of Boys Town, which is located 10 miles west of my home city of Omaha, Nebr. At that time there were graduated 115 boys from high school and 135 boys from grade school.

My home city of Omaha and my native State of Nebraska have many outstanding achievements and places and activities of interest. Among the most unique and best known of these is the world-famed Boys Town which, although it is primarily a school, is an incorporated Nebraska village in which the students, through a mayor and commissioners of their own election, share in governance.

This school was founded in 1917 by the late and beloved Right Reverend Monsignor Edward J. Flanagan. It started from a very modest and even faltering beginning to the very modern and outstanding institution of wide renown which it is today.

It provides a home and school for homeless, neglected, and unprivileged boys. While most of them come from homes broken by death, divorce, desertion, or neglect, the program is a preventive one rather than corrective.

The great regard and high place accorded Boys Town is testified to in many ways. For example, some 3,500 applications for admission are received each year, of which only 10 percent can be accepted. Also the all-round education program is regularly accredited by the State of Nebraska. In addition to regular subjects, it has an extensive and very effective program of vocational education which offers training in one of several trades to each of the boys.

Its program of athletics is known nationwide. Its football teams have played from coast to coast. It has a strong and vigorous intramural sports and recreation program. Its 50-piece concert band, and 15-piece concert orchestra have appeared throughout the Midwest. Its Boys Town Choir of 55 voices has made an annual tour of national scope since 1946.

The philosophy of the founder of Boys Town, the late Father Flanagan, as carried on by his successor, Msgr. Nicholas H. Wegner, has been summed up in this way: "Given the love, care, and guidance which is the heritage of every boy, and the opportunity for good moral, mental, and spiritual training, a boy will grow to useful manhood, a credit to himself, to Boys Town, his community, and to his country."

Mr. President, on the occasion of Boys Town 40th commencement exercises on June 2, 1957, Monsignor Wegner who has provided leadership of vision and devotion to this school since 1948—the year of the decease of its founder—made a statement which should be printed in the CONGRESSIONAL RECORD. I ask unanimous consent that it be done.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

This afternoon we are witnessing the crown of many days, months, and years of arduous labors and toil, the fruit of many untold sacrifices and many eager hopes. The anxieties and worries, and at times, doubtlessly, the disappointments accompanied in the work of rehabilitation and education of these fine young boys are already forgotten because of their cooperation, their achievements, of their accomplishments, and because of the satisfaction they have given.

I know and feel that these young graduates are deeply grateful to all those who have helped them to arrive thus far, and that they appreciate, above all, the daily tasks and labors of their teachers who imparted into their minds and hearts, not only a sound and worthwhile secular education but also a genuine Christian and moral one, which will stand by them, I hope and pray, throughout life.

Every year the lives of thousands of our youth are determined in a great measure by their teachers. Students looking and desiring knowledge and truth accept quite implicitly that which teachers impart to them. Too often teachers give their students anything but the truth, and correct philosophy of life and that is the reason we, so often, hear, given by people in justification of their action, "That's what I was taught by my teachers." Thank God we have teachers at Boys Town who are imbued with the correct philosophy of life, teachers who are interested, not only in the student's temporal success but also in their moral and spiritual welfare and, above all, their eternal happiness. And, I am certain, that if our graduates of this year as well as those in the past and of the future, conform their conduct and lives to the knowledge, spiritual and mental, imparted to them by their teachers at Boys Town, they will be a success in life; they will be a pride to their country, church and Father Flanagan's Boys' Home. As long as they keep before their minds the great eternal truths, they shall not fail. All of us at Boys Town are gratified and feel justly proud of our graduates of 1957, because 115 boys have given satisfaction and completed successfully the prescribed studies of our accredited high school, and 135 have done likewise, and are graduating from our grade school. My heartfelt congratulations and the felicitiations of our entire faculty and staff, I convey to you. We are immensely proud of you because you have shown to the world that homeless and underprivileged boys, if given an equal opportunity and proper environment, can make good, can succeed, and are able to take their places in the world, and accept the burdens of citizenship. May Father Flanagan, through whom the opportunities and advantages given you here, were made, to a great extent possible, be your guide throughout life, your inspiration, your hope.

This afternoon an event is transpiring at Boys Town that will always be held in happy memory. There are persons and people we meet in the highways of life whose character, manliness, high principles, and position impress us, influence our deeds and lives, and bring a very definite reaction in us to better and improve ourselves, to work harder to reach the top. Such a person we have with us this day at our commencement exercises. His life, his character, his Christian manhood, his family life have been an inspiration to millions. He is a true American and Nebraskan. He is a graduate of Omaha and Creighton Universities, and from the latter received his law degree in 1929. He served very successfully as Douglas County commissioner from 1944 to 1952. He was elected in 1952 to the United States Congress as Congressman from the Second Nebraska District in which position he gave outstanding and faithful service. The people of Nebraska recognizing his ability elected him to the Senate of the United States in 1954. Senator HRUSKA we are immensely proud to have you here this afternoon. It is of deepest pleasure for me to present you to the members of the graduating classes, faculty, and all our friends the Honorable ROMAN L. HRUSKA, Member of the United States Senate from the great State of Nebraska.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. ALLOTT. I should like to commend very much to the attention of my

colleagues the statement which the Senator from Nebraska has made, and I should also like to join in that statement.

It is my privilege to know personally the great work being done at Boys Town by Father Wegner, who is doing an inspirational job of leading back into good citizenship these younger citizens of ours, who had wandered astray.

I could not let this opportunity pass without saying something in tribute to the fine work that is being done.

Mr. HRUSKA. I thank the Senator from Colorado. I am sure that the leadership and faculty of Boys Town, as well as the boys themselves, will join me in my expression of appreciation for his kind remarks.

# SENATE

## MONDAY, JULY 15, 1957

*(Legislative day of Monday, June 8, 1957)*

The Senate met at 10 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father, God: We thank Thee for the Sabbath's rest and for the sweet refreshment of sleep restoring the frayed edges of mental and physical resources. We rejoice in the fresh vigor of a new day and the opportunities of another week, as it claims our best for the Nation we all love. Upon Thy servants in this temple of national welfare, pour, we pray, a double portion of wisdom, understanding, and of mutual restraint, as once more they set their faces toward vexing social problems which tax their utmost to solve.

"Grant us vision, grant us courage, that we fail not man nor Thee."

In the dear Redeemer's name. Amen.

## THE JOURNAL

On request of Mr. JOHNSON, of Texas, and by unanimous consent, the Journal of the proceedings of Saturday, July 13, 1957, was approved, and its reading was dispensed with.

## THE CIVIL RIGHTS BILL—PROGRAM

Mr. JOHNSON of Texas. Mr. President, the first week of discussion of the civil-rights bill has done more than produce some of the finest debate in Senate history. It has also produced a basis for meaningful Senate action.

When this debate began, there was a widespread belief that the Senate was shackled and handcuffed. It was thought that we could do nothing but accept the bill which would be before the Senate.

Since then, we have had what one of the most eminent commentators, Roscoe Drummond, calls "the most meaningful and productive debate on civil rights that has marked the deliberations of the Senate in years."

On the basis of that discussion, thoughtful men are at work to explore the alternatives. The Senate has demonstrated that it is not in a straitjacket, but can act according to its convictions as to the course that best serves the national interest.

The junior Senator from Wyoming [Mr. O'MAHONEY] has made a basic contribution to the discussion of the jury trial feature.

The junior Senator from New Mexico [Mr. ANDERSON] has announced the outlines of an amendment he is preparing.

The senior Senator from South Dakota [Mr. MUNDT] has told us, in the speech he delivered on Saturday afternoon, that he is ready to present his ideas of an alternative.

The junior Senator from Tennessee [Mr. GORE] has offered some basic suggestions.

The senior Senator from Georgia [Mr. RUSSELL] has discussed a number of approaches, and has submitted at least three amendments.

Undoubtedly, there will be other suggestions and other proposals as we go along. This is a situation in which thoughtful men are impelled to approach an issue along the lines of meaningful action, rather than partisan oratory.

It is particularly significant that the proposals thus far are not confined to 1 section, 1 party, or 1 point of view. The proposals are the reaction of thinking men who realize that great issues must be met with reason, instead of blind dogma.

The reaction of the press over the weekend is a reflection of the level of the Senate debate. There have been careful, thoughtful editorials and articles in such newspapers as the New York Times, the Washington Post, the New York Herald Tribune, and the Washington Star.

Mr. President, I ask unanimous consent that those articles and editorials be printed at this point in the body of the RECORD, as a part of my remarks.

There being no objection, the articles and editorials were ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of July 14, 1957]

### THE CIVIL RIGHTS DEBATE

(By Roscoe Drummond)

WASHINGTON.—We are today witnessing the most meaningful and productive debate on civil rights that has marked the deliberations of the Senate in years.

It is premature to try to forecast unqualifiedly the end result. On the basis of the opening stages of this historic debate, three conclusions emerge.

1. The opponents of the civil-rights bill have devoted themselves to discussing the issues on their merits and have thus far refrained from abusing the precious right of extended debate. The argument has been relevant and, in the main, carried on in good spirit. Later, the temptations to depart from this course will increase.

2. The southern Democratic opponents are already exerting a substantial impact on the shape of the legislation that may ultimately come. Everyone close to the scene knows that their purpose is to defeat the whole bill. But it is my conviction that the southerners deserve credit for forcing its proponents to take a second and third look at its provisions. The result will almost certainly be some clarifying and moderating amendments.

3. From conversations with leaders on both sides, the present outlook is this—without clarifying and moderating amendments, it is very doubtful that the bill can pass; with such amendments, it is quite probable that the bill will pass.

Three amendments are now in the making, and after the vote putting the bill before the Senate, they will undoubtedly come to the surface.

One amendment would have the effect of affirming that the new legislation in no way authorizes the use of troops to enforce decisions of the courts. The Justice Department and the advocates of the bill hold that there is no purpose to such a disclaimer, since this bill neither adds to nor subtracts from the authority of the President to use troops in the last resort to enforce the judicial process. However, there would be no resistance to making this point doubly clear.

Another amendment which will be considered would strike from the bill any authority for the Federal Government to enter civil suits bearing upon the integration of the public schools. Since the implementation of the Supreme Court decision now is in the jurisdiction of the Federal district courts, there will be many in the Senate who will deem it premature to extend the role of the Department of Justice into this field.

A third amendment would bear upon jury trials for persons held in violation of a court injunction. Historically, injunction proceedings have not involved jury trials, but a compromise is being discussed which would prescribe trial by jury when matters of fact, rather than law, were primarily at issue.

The second and third of these amendments would obviously narrow the scope and force of the legislation. But its heart and center would remain. That is to secure and bring to reality the most fundamental right of American citizens, the right of all to vote under the same terms and qualifications.

These amendments would, in the judgment of its supporters, make the bill as moderate as President Eisenhower has been describing it. They would strip from the bill the objections which its critics have been raising most strenuously, and would leave it dealing with a civil right which even opponents of the bill rarely question openly—the right of all citizens to vote on equal terms.

There are some who make a point of saying that there is no constitutionally guaranteed provision that every citizen has the right to vote. That is true, and the present civil-rights bill does not assume nor assert that it is otherwise. The right which this legislation aims to protect is that the voting qualifications shall be applied to all citizens equally, that there shall be no discrimination.

Not many opponents of the bill argue against this proposition. They only argue that they don't want the Federal Government acting to guarantee this right. But it should not be overlooked that the proposed right-to-vote legislation deals only with voting for the nomination and election of Federal candidates.

There will be some who will feel that this is an overly moderate act in behalf of equality in the right to vote. However, this is the first time in 90 years that significant civil-rights legislation has come even near to being enacted.